

IN SENATE
JANUARY 11, 1941

ON PASS OF CONFIRMATION OF THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE NINTH CIRCUIT

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

COMMISSIONER OF THE GENERAL LAND OFFICE

No. 10450

United States
Circuit Court of Appeals
For the Ninth Circuit.

HARRY BRIDGES,

Appellant,

vs.

**I. F. WIXON, as District Director, Immigration
and Naturalization Service, Department of
Justice,**

Appellee.

Transcript of Record

VOLUME IX

Pages 3811 to 4284

**Upon Appeal from the District Court of the United States
for the Northern District of California,
Northern Division**

VIRGIL MacMICKLE

called as a witness on behalf of the Alien, being first duly sworn, testified as follows:

Presiding Inspector: Give your name to the reporter.

The Witness: Dr. Virgil MacMickle; V-i-r-g-i-l M-a-c-M-i-c-k-l-e.

Direct Examination

By Mr. Gladstein:

Q. MacMickle? A. MacMickle. That's it.

Q. Where do you reside?

A. Portland, Oregon.

Q. What is your address?

A. My business address is 327 Park Building.

Q. Is that spelled P-a-r-k or with an "e" on it? A. P-a-r-k.

Q. What is your profession?

A. I am a naturopathic physician.

Q. Have you practiced that profession in Portland for some time?

A. I started my twenty-eighth year in practice on March 15th of this year.

Q. Doctor, during your—

Presiding Inspector: Don't you think we ought to know a [3193] little bit more about this profession? I regret to say I have never heard of it.

By Mr. Gladstein:

Q. All right. Will you describe it a little more fully, please.

A. In Oregon we have the regular medical and surgical profession and the osteopathic and allo-

(Testimony of Virgil MacMickle.)

pathic and the naturopathic, and we also have licensing and examining boards. As a matter of fact, we all have to pass the basic sciences in pathology —

Presiding Inspector: (Interposing) I asked for information simply. Are you allowed to diagnose?

The Witness: Yes.

Presiding Inspector: Disease?

The Witness: Yes.

Presiding Inspector: Or pathological condition?

The Witness: That's right. I am.

Presiding Inspector: And are you entitled to prescribe and treat?

The Witness: I am prescribed to do everything, your Honor, except major surgery and the use of pharmaceutical drugs. [3194]

Presiding Inspector: This is all unknown to me. I want information.

Mr. Gladstein: I see.

By Mr. Gladstein:

Q. When did you obtain your license in Oregon to practice this profession?

A. Well, you see, when I first started in practice we were included under the Osteopathic Act of 1907. We had no separate board of our own. Then we got our license law in 1927, at the 1927 session of the Oregon Legislature.

Q. And since that time have you been licensed continuously in the State of Oregon as a naturopathic?

(Testimony of Virgil MacMickle.)

A. Yes, I have. As a matter of fact, I was appointed to the first long term on the board by Governor I. L. Patterson, and then I was reappointed by Governor Julius Meyer.

Q. What board is that?

A. The Naturopathic Board of Examiners.

Q. Do you still hold that position with that board?

A. No, sir.

Q. What were the terms during which you held those positions?

A. From 1927 to—I believe the first appointment was—until 1930. Then, due to the death of Governor Patterson we had a Governor pro-tem, who, when my term expired, appointed another fellow; and then there was an independent election and [3195] Governor Meyer came in and removed the previous appointee who had been put on my position, and I filled his unexpired term.

Q. Until when?

A. Well, that would be from 1931, July 1, 1931, until July 1, 1933.

Q. And in that profession you are entitled, are you not, to the designation of "Doctor", is that correct?

A. Yes. We are legally—we have the right to sign all documents, and all that sort of thing, that are conventionally signed by any physician.

Q. Did you, while you were practicing your profession in the City of Portland, ever meet a man by the name of Robert Wilmot?

A. Yes.

Q. When did you first make his acquaintance?

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: If your Honor please, I object to that question. If he met him in the capacity of a doctor, of course, the communication would be privileged.

Presiding Inspector: I don't know what it is. We will find out.

Mr. Del Guercio: Before this question is answered.

Presiding Inspector: I will find out whether he met him or not. There can be no harm in that.

Mr. Gladstein: Read the question. [3196]

(The question referred to was read by the reporter as above recorded.)

A. My recollection is probably in 1936; that is as near as my recollection serves.

By Mr. Gladstein:

Q. And for how long a period of time did you remain acquainted with Mr. Wilmot?

A. Well, I suppose to the present moment. I haven't seen much of him in the last year. I have passed him on the street just recently.

Q. Do you know whether for a time, during your acquaintance with Mr. Wilmot, he was connected with the CIO in Portland?

A. Yes; he was the editor of the Labor New Dealer.

Q. Was Mr. Wilmot ever a patient of yours?

A. Yes.

Q. During what period of time?

A. Well, I would say he was a patient off and

(Testimony of Virgil MacMickle.)

on, probably, from the time I first knew him until about a year ago.

Q. During that period of time did you ever have occasion to discuss with other people the reputation of Mr. Wilmot for truth and veracity?

A. Yes. In the last year of our—as I say, prior to a year ago, which was the year 1940, I did.

Q. Do you know what Mr. Wilmot's reputation was as of that time and has remained since, what that reputation is and was, [3197] with the people with whom Mr. Wilmot was associated or came into contact with as respects his truth and veracity?

Mr. Del Guercio: I object to that question. No proper foundation has been laid for it. The witness has not been qualified sufficiently.

Presiding Inspector: I think he has. He lives in the same community, knew him, he was a patient of his.

Mr. Del Guercio: Only as a patient, but on the other—

Presiding Inspector: This is to show his acquaintance with him.

Mr. Del Guercio: Does the doctor-patient relationship come within the rule?

Presiding Inspector: This is merely as to acquaintance. He isn't going to disclose anything he learned in that way.

Mr. Del Guercio: Perhaps I don't make myself clear. It seems to me that this witness—I may be wrong—has testified that his only relationship ap-

(Testimony of Virgil MacMickle.)

parently with Mr. Wilmot has been that as doctor and patient.

Presiding Inspector: Yes.

Mr. Del Guercio: The other, if he has had any other association, isn't very clear.

Presiding Inspector: He says he passed him on the street, passed him casually. I suppose. But that doesn't make any difference. This shows that he has heard his character discussed by people that were in the vicinity where he lives. [3198]

Mr. Gladstein: Yes.

Presiding Inspector: I will allow you to ask if his reputation is good or bad.

Mr. Del Guercio: Just a moment.

Presiding Inspector: I thought he said he knew.

The Witness: Yes, I do.

By Mr. Gladstein:

Q. Do you know whether that reputation for truth and veracity of Mr. Robert Wilmot was and is good or bad?

A. The last year of my knowledge, bad.

Q. Would you believe him under oath?

A. No, I wouldn't.

Q. Doctor, during the practice of your profession did you ever meet a man by the name of Richard Lovelace?

A. Many times.

Q. When did you first become acquainted with Mr. Lovelace?

A. I should say along in 1933.

Q. Have you know him fairly continuously since that time?

A. Very continuously.

Q. Is he alive today?

(Testimony of Virgil MacMickle.)

A. No. He died, I would say, about two months ago, if my recollection is right.

Q: Was he a patient of yours?

A. Yes. He was a patient of mine off and on during [3199] that period.

Mr. Gladstein: Your Honor, before I proceed further I have this question to raise with the Court: I think we are entitled, in view of the fact that Mr. Lovelace is not available, and in view of the fact that your Honor has admitted a statement signed by Mr. Lovelace, to go into the question of the mental condition of Mr. Lovelace during a period of, say, a year or so prior to his death.

Now, I anticipate that counsel will object on the ground that I am seeking to disclose confidential matters. I assure you that is not my intention, but I do not see how I can avoid necessarily bringing some of that out; although some of the testimony of this witness will have to do with matters that are generally known and which, I believe—I can't state this on absolute assurance—I believe other witnesses in this case will also substantiate, that is, matters of not perhaps common knowledge, but matters at least which are not confined merely within the confidential relationship of a patient and his doctor.

Mr. Del Guercio: It isn't only *that* on ground that we object. We are not concerned, and counsel should not have made reference to any other witness; we are concerned mainly with this witness. We would object to anyone besmirching the charac-

(Testimony of Virgil MacMickle.)

ter of a dead man who is unable to protect himself, regardless of who the witness may be. [3200].

Presiding Inspector: I am a little puzzled about how to rule on this thing. If you want to put lay witnesses on and show that his conduct was such and such, and should be characterized as irrational, why, I think I would receive that.

Mr. Gladstein: That is what we want to do.

Mr. Del Guercio: I am assuming that the witness' ethics are such that they wouldn't permit him to answer.

Presiding Inspector: Yes—I don't know.

Mr. Grossman: May I ask this question?

Presiding Inspector: Yes.

Mr. Grossman: If that were true how would it be possible in any court to prove mental incompetence? Obviously, to prove it scientifically it is necessary to call a medical man who has some kind of a relationship with the person involved.

Mr. Del Guercio: With the consent of his family and guardian.

Presiding Inspector: I suppose you could show it by lay witnesses, and ask a hypothetical question based on the lay witnesses.

Of course, we know the Hippocratic oath of confidence, which is recognized by courts. Of course, this is not a court proceeding but—

Mr. Grossman: In almost any court the common law rule of evidence, because of lack of cross examination, the affidavit of a dead man, which cannot otherwise be challenged by cross [3201]

(Testimony of Virgil MacMickle.)

examination, is not admissible. Obviously, how are we to answer this? How are we to discredit this, how are we to produce any evidence if that which is most scientific, and which deals most with the credibility of the statement is not allowed, and that is mental condition of the person who made the statement, if that cannot be gone into in a scientific way?

We recognize also the difficulty you point out of the possible violation of that oath and that is why we ask for a ruling on it.

Presiding Inspector: I am frankly puzzled by it.

Mr. Gladstein: That is why I put the question the way I did, without proceeding further. I recognize the difficulty of the problem, but, your Honor, in so far as we desire to bring out—

Presiding Inspector: The subject matter is competent, is pertinent, but—

Mr. Gladstein: (Interposing) I understand.

Presiding Inspector: (Continuing) —but it is only whether this witness can testify on account of the privilege which every person is given when that person consults a physician. You see the law, both statutory and, in some states, common law, holds that the welfare of the people is best served by preserving the privilege of the patient and the confidence of the patient, even though it may interfere with the due administration of justice. [3202]

I know the criticism of Dean Wigmore, for example, as to all of these privileges, but the

(Testimony of Virgil MacMickle.)

physician, the Priest and the lawyer are put in a class and are not allowed to violate the confidence of their patients, or of their parishioner and of their client.

Mr. Gladstein: Just a moment.

Presiding Inspector: Yes. I would like to have you present some authority on this if you could.

Mr. Gladstein: I am very willing to look at the authorities on that.

The thing that occurs to us, your Honor, is that if—I may state this furthermore before I ask the question: This witness, I believe, is in a position to testify, not only to those things which he learned concerning Richard Lovelace as a result of the professional relationship that was sustained between the two, but also things which are not, strictly speaking, things that were revealed during or within the confines of that relationship.

I have in mind things which possibly other people may also be in a position to vouch for. However, would the fact that this witness is not a layman, and did come by some of his information as a result of having Mr. Lovelace as a patient, would that disqualify him from also testifying as to things that he knows about Mr. Lovelace that did not come to him in the patient-doctor relationship?

[3203]

Mr. Del Guercio: The answer to that is quite obvious, your Honor. If there is a relationship of physician-patient—I assume the witness is a physician—anything that he may learn from what

(Testimony of Virgil MacMickle.)

ever source necessarily comes within the rule of confidence, because he has knowledge gained during the relationship of physician and patient, and it must be necessarily because of that knowledge gained that he would base his opinion, as to what others would say, if that confidential relationship exists.

Presiding Inspector: I would like to have some authorities presented.

Mr. Gladstein: Before we go into that let me proceed on another line of examination.

Presiding Inspector: I am not finally ruling, you see.

Mr. Gladstein: Yes. But, I thought I could go into some other matters before we come to this question again.

Presiding Inspector: Go ahead.

By Mr. Gladstein:

Q. Now, Doctor, prior to Mr. Lovelace's death, did you ever have occasion to discuss with other people who knew or worked with Mr. Lovelace his reputation for truth and veracity?

A. Yes, I did.

Q. Do you know what that reputation was for a period of, let us say, the last year of his life, among his acquaintances, with the people in the vicinity with whom he worked?

Mr. Del Guercio: I object to that, if your Honor please; [3204] as asking for the reputation for truth and veracity of a dead man.

Presiding Inspector: I will take it but, of course,

(Testimony of Virgil MacMickle.)

if we find out that this is influenced in any way by his knowledge as to what had been disclosed to him in the relationship of patient and doctor, of course you might have to strike this out. But so far as it appears in your question it doesn't appear that there is any such element.

Mr. Gladstein: Right.

Presiding Inspector: I want the witness to understand that in this matter you are not to take into consideration anything more than what you have heard discussed by others who were his neighbors, or his associates, or had some knowledge of him.

By Mr. Gladstein:

Q. Based on those discussions are you in a position to state whether you know what Mr. Lovelace's reputation for truth and veracity was during, let us say, the last year of his life?

A. Very bad.

Q. Would you—well,—it is obvious that the next question must refer, of course, to the period during which he signed that statement.

Presiding Inspector: Yes.

By Mr. Gladstein:

Q. Would you, during the period of time, or during the last year of his life— [3205]

Presiding Inspector: I don't think it is really material, that statement.

Mr. Gladstein: It was introduced here as if it was sworn to.

Presiding Inspector: It doesn't make any differ-

(Testimony of Virgil MacMickle.)

ence whether it was sworn to or not as far as admissibility is concerned.

Mr. Gladstein: The more we come to the question the more it appears to me that if the usual rules of law are to be applied to this question of the Richard Lovelace statement, as you point out, we are prevented in one way or another from establishing that there was no truth or veracity to be attached to the man, and there is no way of cross examining the man, of course, and no way to attempt to probe the basis of the opinions and statements he sets forth in the statement. I am convinced, your Honor, that I frankly cannot see that there is any alternative for the Court but to solve the question by striking the statement of Mr. Lovelace from the record.

Presiding Inspector: That may finally be done. I don't know. I don't think I will do it now.

Mr. Gladstein: The only difficulty with delaying the thing is that it leaves us in this position:—

Presiding Inspector: Frankly, it is an extension of the common law rule. I am going beyond that in admitting the statement. There is no question about that. But in this administrative hearing, where the only confines are, first, [3206] relevancy and, second, fairness, I thought that I was justified in receiving the statement. But you are in a difficulty here. I think I will allow you to show that this witness could not, during the period that you have specified, believe his statement under oath.

(Testimony of Virgil MacMickle.)

By Mr. Gladstein:

Q. I will ask you that question now, Doctor. During the last year of his life would you have believed Richard Lovelace under oath?

A. No.

Q. Now, Doctor, are you in a position to tell us—

Presiding Inspector: Excuse me—this is a little different, of course, from the usual case. There have been intimations here which are sufficient to lead me to surmise that perhaps there are other reasons why he wouldn't believe him, and the fact that he was not a truthful person ordinarily; but we will have to let that stand, I suppose.

By Mr. Gladstein:

Q. Of course, the question that I asked, or intended to be understood, was based on his reputation so I will ask it that way—in the last question which I wish to reframe now—I want to ask this: Would you, based on your knowledge of Mr. Lovelace's reputation for truth and veracity during the last year of his life, have believed him under oath at any time during that period? [3207] A. No.

Mr. Del Guercio: Just a moment. I object to that.

Presiding Inspector: I think I will take it. There is a difficulty here.

By Mr. Gladstein:

Q. Now, Doctor—

Presiding Inspector: It is somewhat doubtful.

(Testimony of Virgil MacMickle.)

I think you are right in interposing an objection.

Mr. Del Guercio: Yes.

By Mr. Gladstein:

Q. Are you in a position to testify as to activities or the conduct of Mr. Lovelace during the last year, let us say, or thereabouts, of his life, showing a lack of mental competency based on knowledge or information obtained by you outside of your medical profession relationship with Mr. Lovelace?

Mr. Del Guercio: Just a moment. That question almost amounts to contempt. Counsel knows that Mr. Lovelace was under treatment by the Veterans Bureau up until the time of his death.

Presiding Inspector: That has been in the record.

Mr. Del Guercio: That is correct. If he wanted any information concerning Mr. Lovelace's mental capacity during that period of time that would have been the place to have gone, and not to this person here who hasn't been qualified as [3208] a—

Presiding Inspector: There is some proof, I think, from Mrs. Lovelace, that her husband was under treatment. That is so, isn't it?

Mr. Gladstein: She said something like that, but we are not confined to ascertaining what the Veterans Hospital records say was the cause of his death, or anything of the sort.

Mr. Del Guercio: Not that; what they show concerning his mental condition, and they do show that.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: In another respect, of course, if Mr. Del Guercio raises the question about confidence, those records, I take it, are subject to the same rule that he raised, isn't that right?

Presiding Inspector: I suppose so.

Mr. Gladstein: All right.. There is another thing I wish to point out: Whether the present witness is a doctor or not, if he has learned through sources other than the medical professional relationship that he sustained with Mr. Lovelace, that Mr. Lovelace was committing acts, or was guilty of conduct which to any reasonable person, would be considered irrational, for example—and I mention this simply as an example—if he knows of his own knowledge that Mr. Lovelace, during the last year of his life, was writing letters to people and attempting to extort money, and making threats, and being very irrational, I think he would be in a position and entitled to testify as to [3209] that, unless those matters came to his knowledge only by virtue of his being the doctor in the case. In other words, I think—

Presiding Inspector: I will let him testify to any peculiar acts of which he has notice, and which he did not learn from the lips of Mr. Lovelace, or from anyone else of his family, or which he did not see, observe, during the time that he was treating him.

Mr. Gladstein: That is all right.

Mr. Del Guercio: If the witness can distinguish them.

(Testimony of Virgil MacMickle.)

Presiding Inspector: I know we are in difficult water here, stormy water, and I think I will try to survive and swim in it—and I don't know whether I can or not—but we will see if the witness can answer that question.

Mr. Del Guercio: I object to it on another ground—that it is improper.

Presiding Inspector: I will allow anything that you didn't learn from him, or from his wife, and which you know about, which occurred during the last year, is that the time, the last year?

Mr. Gladstein: Say, during the last year or so of his life.

The Witness: Shall I go ahead?

Presiding Inspector: Yes.

A. Well, I know from the lips of friends—this he wouldn't tell me himself of course—[3210]

Mr. Del Guercio: (Interposing) I can't hear.

Presiding Inspector: He said, "I know from the lips of friends, this he wouldn't tell me himself, of course"—

A. (Continuing) He had the peculiarity of turning suddenly sour on one or another of his close friends, and denouncing them in, well, vile language, and threatening them with physical violence.

Mr. Del Guercio: If your Honor please, I move—

Mr. Gladstein: He hasn't finished his answer.

Mr. Del Guercio: I move to strike the answer out.

Mr. Gladstein: I think the witness should be

(Testimony of Virgil MacMickle.)

permitted to finish his answer before there is an objection to it.

Presiding Inspector: I think he about has.

The Witness: No, I haven't.

Presiding Inspector: Go ahead. We will hear the rest of the answer.

A. (Continuing) He did write letters, and these were brought to me by the husband of the woman in question, in which he did attempt to extort money from the woman by various threats, some of them phrased in such obscene language that I wouldn't dare to repeat them here; and the husband also assured me that he had orally and in person tried to terrorize his wife. Then, of course, that matter was, in due course, introduced before the proper authorities there. I know Mr. Stack, in Portland, phoned me about it because I merely recommended to the husband, [3211] who wanted to know what to do, to communicate with the authorities. I sent him to Mr. Stack, who had that function, and Mr. Stack called back and discussed the matter with me.

So I know those letters were written, and they were pretty terrible, and they were voluminous.

Mr. Del Guercio: I move to strike out his entire answer. It is obvious that this witness is violating his confidence.

Presiding Inspector: I can't say that is so positively. If he received these letters, or was shown these letters by some acquaintance, which he can say were written by Mr. Lovelace, I will take his

(Testimony of Virgil MacMickle.)

testimony along that line so far as those letters are concerned.

Mr. Del Guercio: We can't confront him with the testimony of Mr. Lovelace because Mr. Lovelace is dead. We can't bring him back to give the lie to that.

Mr. Grossman: He is not attributing this to Mr. Lovelace. Mr. Lovelace wouldn't be the proper one to testify on it anyhow, but it can be checked by the people involved.

Presiding Inspector: I will take it. This is what this witness has seen, threatening letters, letters of extortion, which might be said to be letters demanding money, blackmail, extortion, addressed to some wife of a friend of his. Now, you may show who that man is. Perhaps you had better do that.

It is rather unfortunate to bring all this into this case. [3212]

A. (Continuing) Yes, and—

Mr. Del Guercio: (Interposing) There is no question pending. The Court should admonish the witness not to answer unless there is a question before him.

Presiding Inspector: Yes. Don't answer unless there is a question. Go ahead. I have ruled. Go ahead.

By Mr. Gladstein:

Q. Is there any doubt in your mind, Doctor, that the threatening letters that you have mentioned,

(Testimony of Virgil MacMickle.)

were letters written by Mr. Richard Lovelace during his life?

Mr. Del Guercio: I object to that on the same ground—we know what the witness' answer will be—that we cannot bring Mr. Lovelace back.

Presiding Inspector: But you might bring this man in to whom the letters were addressed, or his wife. I will take it.

The Witness: I didn't catch the question.

Presiding Inspector: Do you know whether or not these were in the handwriting of Mr. Lovelace?

A. Well, I definitely was convinced in my own mind that they were.

Presiding Inspector: That isn't enough. Do you know whether they were?

The Witness: They bore his signature and they came through the mail addressed to this person, and the husband had confronted [3213] Mr. Lovelace with them.

Presiding Inspector: That is what he told you?

The Witness: Yes; and threatened to kill him.

[3214]

By Mr. Gladstein:

Q. Did Mr. Lovelace ever discuss these letters subsequently with you? A. Yes.

Mr. Del Guercio: I will object to that question. There again we can't bring back Mr. Lovelace to confront this witness.

Presiding Inspector: Were you treating him?

The Witness: No. He was under the Veteran's treatment.

(Testimony of Virgil MacMickle.)

Presiding Inspector: You weren't treating him?

The Witness: No.

Presiding Inspector: I will allow that as to what you discussed with him.

A. Well, after this husband of the woman received these letters or found them among his wife's possessions and brought them to me, at least he seemed to be in the mood to do great violence, and I talked him out of it. And he talked with Mr. Lovelace in the afternoon, and the next morning Mr. Lovelace asked me by some means, because I had known the lady in question, if I couldn't get these letters back. And I said, No, I couldn't do anything of that sort. And then subsequently he informed me that it didn't make any difference.

Mr. Gladstein: What is the last part?

Presiding Inspector: "Subsequently he informed me that [3215] it didn't make any difference." That was the last.

By Mr. Gladstein:

Q. Did you ever have a discussion with Mr. Lovelace concerning these letters in which he said that he had taken some steps in Washington, D. C. to help him? A. Yes.

Mr. Del Guercio: Your Honor, just a minute, please! I will object to that question on the same ground.

Presiding Inspector: I will take it. I will take that. You see, you couldn't call the attention of

(Testimony of Virgil MacMickle.)

Mr. Lovelace because Mr. Lovelace was dead. I will take it.

By Mr. Gladstein:

Q. You said "Yes"? A. Yes.

Presiding Inspector: This is where we are trying to chart a course where there are no lighthouses or buoys or anything else.

Mr. Del Guercio: We do have, however, your Honor, reason. Reason would dictate the exclusion of it.

Presiding Inspector: I am trying to apply reason. I may be wrong.

Mr. Gladstein: We recognize it is difficult, your Honor. This is hearsay, but the statement itself is subject to the same objection.

Presiding Inspector: I will take it. [3216]

Mr. Del Guercio: Hearsay, if your Honor please, and coming from the lips of a man who has testified that he was that dead person's physician.

Presiding Inspector: Not at this time.

Mr. Del Guercio: During the lifetime of that dead person.

Presiding Inspector: Not at this time.

Mr. Gladstein: May I have the question.

(The question referred to was read by the reporter as above recorded.)

By Mr. Gladstein:

Q. What was that conversation, the substance of it?

A. Well, he came in and said "Don't worry

(Testimony of Virgil MacMickle.)

about those letters anymore. I don't care about them. I have got too many friends in Washington. It's all fixed up."

Q. Are you in a position to say, Doctor, of your own knowledge about any other conduct of Mr. Lovelace which was abnormal or peculiar that you didn't learn from or during your professional relationship with him?

A. Well, he became a habitual drunkard, as would be evidenced by meeting him on the street and in social gatherings and things of that sort.

Mr. Del Guercio: I move to strike that. I move that that answer be stricken, your Honor, as obviously improper.

Presiding Inspector: I will allow it. As to his being an habitual drunkard, I think I will exclude. But you may [3217] have him tell how many times he saw him drunk.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Would you do that, please, Doctor?

A. Well, I saw him drunk almost daily over a large period of—well, a good part of a year.

Q. A good part of a year?

A. A good part of a year, almost daily, except Sundays which, of course, I wouldn't be downtown.

Q. Was Mr. Lovelace on the public streets in Portland at that time?

A. Yes, very much.

Mr. Gladstein: Now, your Honor, there is only one more question that I wish to go into. But,

(Testimony of Virgil MacMickle.)

as I say, you prefer a memorandum. I will try during the noon hour. Therefore, I wish to reserve until I have had a chance to check the authorities to find what the law says as to my right to bring out a question, which very, frankly goes to the mental competency of Mr. Lovelace but which would, of course, involve the professional relationship of the doctor with Mr. Lovelace.

Presiding Inspector: I think you had better postpone that.

Mr. Gladstein: With that reservation, that I haven't finished my direct for that reason only, I am perfectly willing to have counsel cross examine the doctor now.

Mr. Del Guercio: We will not cross until they are through with their examination. [3218]

Presiding Inspector: All right. They have that right. We will let you withdraw the witness at this time.

Mr. Gladstein: I had, frankly intended, your Honor,—I didn't think that we would need another witness this morning, because I thought that the cross and direct would certainly go through twelve thirty. And I anticipate that it would, if it were begun now. The questions that I wish to bring out from this witness, though, as I say, revolve around his confidential relationship.

Mr. Del Guercio: I—

Mr. Gladstein: (Interposing) Maybe if I asked the witness, it is possible that some of his informa-

(Testimony of Virgil MacMickle.)
tion came from other sources. I do not know. I would like to ask him that.

Presiding Inspector: Very well.

Mr. Gladstein: Perhaps it is possible.

By Mr. Gladstein:

Q. Doctor, concerning the apparent mental condition of Mr. Lovelace during, let us say, the last year or thereabouts of his life,—

Presiding Inspector: (Interposing) Let us find when he ceased to be his patient.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. When did he cease to be your patient?

A. Oh, I would say along in the fall of 1939.

Q. He was your patient off and on from around 1934, I [3219] think you said, until 1939?

A. Yes. You know, minor ailments and things of that sort.

Mr. Del Guercio: From 1933 I believe was the previous testimony.

The Witness: From 1933.

By Mr. Gladstein:

Q. Well now, subsequent to the fall of 1939, subsequent to the time that he ceased to be your patient, are you in a position to say from your observation of him and your knowledge of his conduct as to whether he appeared to be mentally abnormal and, if so, in what respects?

Mr. Del Guercio: Just a moment, if your Honor please. I will object to the question unless the

(Testimony of Virgil MacMickle.)

witness is able to distinguish between knowledge gained——

Presiding Inspector: (Interposing) Yes. I think I will sustain the objection. May I suggest to you that you treat him as a lay witness?

Mr. Gladstein: All right.

Presiding Inspector: And ask him whether these acts, which he has now described impressed him as rational or irrational, characterizing the acts rather than the man.

Mr. Gladstein: All right.

Presiding Inspector: And let the conclusion about the man go to the trier of the facts so far as this witness is concerned. [3220]

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Well now, in the questions that I am going to ask you from now on, Doctor, will you please bear in mind to confine yourself only to that period that starts after Mr. Lovelace ceased to be your patient? Is that clear?

A. That's right.

Presiding Inspector: And to the acts that he has described.

Mr. Gladstein: Well, there may be others that I want to ask him about.

Presiding Inspector: Oh yes. Which he has described or may describe.

By Mr. Gladstein:

Q. Did you observe, outside of the condition

(Testimony of Virgil MacMickle.)

which I think you described as habitual drunkenness, and the other incidents about the threatening letters, anything else concerning Mr. Lovelace that was unusual or peculiar?

A. Yes. In his, oh, in his private social conversation—I mean, in talking as man to man and not as man to physician—

Mr. Del Guercio: (Interposing) I can't hear the witness.

The Witness: I am sorry. I will try to speak louder.

Presiding Inspector: Read the answer.

(The answer referred to was read by the reporter as above recorded.) [3221]

A. (Continuing) —he on one occasion asked me if I ever talked to the "pixies". And I looked at him peculiarly, and he said "Well, I do". And then he would indulge in a conversation with you which might start out rationally enough and then a blank stare would come over his face, he would change color and then suddenly he would pass his hand over his face like that and shake himself a little bit and then say, "Well, what were we talking about?" His mind from a lay man's point of view did not track. He was not rational and coherent.

By Mr. Gladstein:

Q. Was he violent in his manner of speech or in his general manner?

A. Yes. He was violent in his speech and in his gesticulations. He seemed to have no capacity

(Testimony of Virgil MacMickle.)

to say anything during that last year in an ordinary tone of voice and in ordinary language. He had to resort to very strong language and a great deal of twisting of the face and violent gesticulations. And I have heard other people in my presence ask him if he thought he was God, by the gestures that he made, the Godly gestures.

Mr. Del Guercio: I move that all of the latter testimony, unresponsive to the question, be stricken.

Mr. Gladstein: It is quite responsive.

Mr. Del Guercio: All of this is unresponsive.

Presiding Inspector: No. He asked for peculiar or unusual [3322] acts, and even a lay witness may give those.

Mr. Del Guercio: Well, he didn't mention that.

Presiding Inspector: That, as I understood, is the question.

Mr. Gladstein: That is right. I intended to be, and if it wasn't, I would like to have the record amended to be that.

Presiding Inspector: Now, I assumed that that was the question. There were phrases in there where he very naturally—a physician, it is hard to separate himself from the two departments and to be in one department a physician and in another department a lay man. We were asking him for unusual or peculiar acts and he gave some. Now, I will strike out that part where he said that he seemed to begin rationally, and then there was the change in his—I don't suppose he meant "rational", but I will let you ask about that.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: All right.

Mr. Del Guercio: If the Court please,—

Presiding Inspector: (Interposing). And I will strike out the portion I mentioned. The rest of it I will allow.

Mr. Del Guercio: With this further observation: While counsel has asked for peculiar acts, the witness has testified that he looked peculiar to Mr. Lovelace.

Presiding Inspector: I didn't so understand it.

Mr. Del Guercio: Well, if you read the testimony back [3223] it will so show.

(The answer referred to was read by the reporter as above recorded.)

Presiding Inspector: I will strike out the part that he had heard other people.

Mr. Gladstein: This was in the presence of Mr. Lovelace, your Honor.

Presiding Inspector: Oh, did you mean that?

The Witness: Yes.

Presiding Inspector: That was part of a conversation?

The Witness: Part of a conversation.

Presiding Inspector: Oh, I didn't understand that. Then I will let it stand as a part of what he is describing.

By Mr. Gladstein:

Q. Can you recall now, Doctor,—

Presiding Inspector: (Interposing) The other part that I referred to was in a previous answer.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: All right. Then I want to get to that point, too.

By Mr. Gladstein:

Q. Do you recall whether during the last year of his life and subsequent to the time that he ceased to be your patient, whether Mr. Lovelace would ever show anything unusual or peculiar in the manner in which he carried on a conversation?

[3224]

Mr. Del Guercio: I will object to that.

Presiding Inspector: I will take it.

A. Yes.

Presiding Inspector: You should give incidents, if it is possible.

Mr. Gladstein: Yes. First I want to ask him if he knows, then I will ask him for instances.

By Mr. Gladstein:

Q. Was the answer "Yes", Doctor?

A. Yes.

Q. Now, will you state such instances of that character of the testimony that I have called for as you remember?

A. Well, I hardly remember a case in which his conversation wasn't of that character during the last year. There would be innumerable instances of the sort.

Q. Where what would happen?

A. Well, where somebody would make a statement which he would instantly challenge and in such a manner that it would give considerable

(Testimony of Virgil MacMickle.)

offense as though he were of the final authority and as if the other fellow really had no right to an opinion. And this was so marked not only in private conversation but in one organization to which we belonged that he was dropped from the organization because he never under any circumstances permitted anybody to finish a speech if he could possibly interrupt him, and then he denounced them and called them "rats" and various other names that, you know, [3225] you can't have go on in an organization.

Q. Now, can you recall any other conduct outside of just the conversations or whether contained in the conversations or otherwise which was unusual or peculiar?

Mr. Del Guercio: Before or after his death?

Mr. Gladstein: What kind of an objection is that?

Presiding Inspector: This is all confined within the period essentially of the last year of his life.

Mr. Gladstein: But Mr. Del Guercio said "Before or after his death?" Did your Honor understand that?

Mr. Del Guercio: Will he fix the period of time, if your Honor please?

Presiding Inspector: Yes, that was just to fix it.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. You understand too, do you not, Doctor, that I am confining my questions now to the period of time that began when he ceased to be your patient

(Testimony of Virgil MacMickle.)

and which ended at the time of Mr. Lovelace's death? A. That's right.

Q. Or your last contact with him prior to his death. Now, bearing that in mind, can you now think of any other instances of unusual or peculiar conduct of Mr. Lovelace during that period?

A. Well, yes. He was asked out of several social [3226] functions because of being drunk and indecent in his remarks to women, and on one occasion——

Mr. Myron: (Interposing) Keep your voice up. We can't hear you.

A. (Continuing) ——and on one occasion fell flat on the floor and had to be carried out. He also had the peculiarity, according to many of his friends, of borrowing——

Presiding Inspector: (Interposing) You are giving that of your own knowledge.

The Witness: Oh, I see.

By Mr. Gladstein:

Q. Only your own knowledge.

A. Then, he borrowed money from me at one time or another and never repaid it.

Mr. Del Guercio: I didn't get that last answer.

Presiding Inspector: He borrowed money and never repaid it.

By Mr. Gladstein:

Q. Was there anything else about the money incident? I say, was there anything unusual about the money incident?

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: I will object to that, if your Honor please. Certainly it is unusual. The witness has testified that the dead man, Mr. Lovelace, has borrowed money from him and never repaid it. Now, that don't call for any more.

By Mr. Gladstein: [3227]

Q. Is there anything unusual about the transaction or transactions?

Presiding Inspector: I think the question—

Mr. Gladstein: (Interposing) Probably in the manner in which the thing was done. And that's what I am trying to bring out.

Presiding Inspector: If he can tell anything more about it.

Mr. Gladstein: Yes.

Presiding Inspector: It is simply a borrowing and not paying.

Mr. Gladstein: That itself is not unusual or peculiar, but I assumed that it was—the Doctor intended it was the manner in which it was done. That is why I want to ask him.

By Mr. Gladstein:

Q. Would you answer that question, Doctor?

A. I don't know that there would have been anything.

Presiding Inspector: "I don't know that there would have been anything," he said.

Mr. Del Guercio: I can't hear.

The Witness. Anything unusual.

(Testimony of Virgil MacMickle.)

Presiding Inspector: But you don't mean to say either that anything—you don't mean to imply anything about his financial credit or anything of that kind?

The Witness: No, no. Just that he would borrow money [3228] and apparently forget that he borrowed it and be back a few days later and borrow some more, and you know, apparently forgot.

Q. Did you ever have discussions with him concerning the borrowing of money in which he denied that he had borrowed the money a short time ago?

A. Yes. We had an altercation over a five-dollar borrowing, but he very conveniently forgot and he really got quite violent in the discussion that ensued over that. And I just let it go because it wasn't worth five dollars for so much fuss.

Q. Now, did you know him for a period of time before he became your patient? That is, did you know him for any time—

Presiding Inspector: (Interposing) Now, have you covered this final period?

Mr. Gladstein: I think so.

Presiding Inspector: Don't you want to ask him—I suggest this to you because this has been done in a certain way under my suggestion. Don't you want to ask him whether in his opinion as a lay man these acts impressed him as rational or irrational at the time?

Mr. Gladstein: Well, I was going to come to that, your Honor.

(Testimony of Virgil MacMickle.)

Presiding Inspector: Oh, you were going to put in some more? [3229]

Mr. Gladstein: Not as of that period, but by first going to the period of time before the last year.

Presiding Inspector: Suit yourself: Do as you see fit.

Mr. Gladstein: To show comparative rational conduct and then the change, then ask the witness what his opinion was of the man during the last—

Presiding Inspector: (Interposing) I don't know that I will allow him to state the opinion of the man as a physician.

Mr. Gladstein: No, I don't mean as a physician.

Presiding Inspector: Only characterize the acts

Mr. Gladstein: I see.

Presiding Inspector: It is a close and difficult distinction to make, and, of course, we are in great difficulty here because this man is a physician. When you put the question to an individual it isn't so hard.

Mr. Gladstein: Yes.

Presiding Inspector: I mean, to a lay man.

Mr. Gladstein: I will ask the question that your Honor suggests.

By Mr. Gladstein:

Q. During that period of the last year of his life, that is to say, if the last year is approximately the same as the period between the time that he ceased to be your patient and the time that he died—I can't exactly recall now,—during that period, in your opinion, and based on [3230] your observations of him are

(Testimony of Virgil MacMickle.)

you in a position to state whether or not he was fully rational?

Mr. Del Guercio: I will object to that, if your Honor please, as being improper and incompetent.

Presiding Inspector: I think before you ask that you had better find out whether the specific acts which he specified impressed him as rational or irrational.

Mr. Gladstein: All right. I will ask that.

By Mr. Gladstein:

Q. Did you understand the Judge's question?

A. Yes.

Q. And can you answer it?

A. Yes. His acts impressed me as being irrational.

Presiding Inspector: This whole line is under your objection, Mr. Del Guercio.

Mr. Del Guercio: Yes, it is. The entire line.

Presiding Inspector: As I say, it is very doubtful. I appreciate that.

By Mr. Gladstein:

Q. And can you state, Doctor, whether the irrationality of his acts or the impression you received of the irrationality became increasing as time went on?

Mr. Del Guercio: I will object to that; no time fixed, your Honor.

Mr. Gladstein: This is all, bear in mind, your Honor, during the last year or so. [3231]

(Testimony of Virgil MacMickle.)

Presiding Inspector: I don't think it matters much.

Mr. Gladstein: Oh, I should think it would. If his irrationality was increasing—

Presiding Inspector (Interposing): During the last year?

Mr. Gladstein (Continuing): —during the last year.

Presiding Inspector: Well, I will take it.

A. I think I could definitely say, "Yes" and for one particular thing would perhaps serve to illustrate. He suddenly cropped up, oh, something less than a year ago, with a yarn about having shot a man when he was eleven years old and describing a heroic set of circumstances in which it occurred, which certainly wouldn't be expected from a rational man.

Mr. Del Guercio: If your Honor please, I move to strike out that answer and ask that the witness be admonished.

Presiding Inspector: No. I will let it stand.

Mr. Gladstein: He is giving an illustration.

Presiding Inspector: I will let it stand. He is asking about specific acts. This was after he ceased to be his physician and he is only speaking as a lay man.

Mr. Gladstein: Yes.

Presiding Inspector: Of course, everyone has an idea about rationality. Every lay man has.

Mr. Gladstein: I suppose that is true, and ideas differ. [3232]

(Testimony of Virgil MacMickle.)

Presiding Inspector: It is very difficult. Go ahead, Mr. Gladstein.

By Mr. Gladstein:

Q. Now, would your answer to this question, then, Doctor, be that during the last year of his life the conduct of Mr. Lovelace which impressed you as being irrational was of increasing frequency or degree? A. Yes, indeed.

Mr. Del Guercio: I will— (Pause)

Presiding Inspector: I will take it.

By Mr. Gladstein:

Q. Doctor, have you ever heard of a man named William Brown? A. Yes.

Q. Who is he?

A. Well, the William Brown that I have in mind was connected with the Portland Red Squad.

Q. That is a portion of the Portland Police Department? A. Yes.

Q. Do you know from discussions you have ever had with Mr. Lovelace whether Mr. Lovelace and Mr. Brown were personally acquainted?

Mr. Del Guercio: If your Honor please, I will object to that question. [3233]

Presiding Inspector: I don't know whom he refers to.

Mr. Del Guercio: Unless he wants to show that Mr. Brown was also this physician's patient.

Mr. Gladstein: This isn't part of the physician-patient relationship.

Presiding Inspector: No. He has dropped that.

(Testimony of Virgil MacMickle.)

This is a different thing. I don't know how it is material.

Mr. Grossman: Your Honor, do you want a statement of materiality before the questions are asked?

Presiding Inspector: No. I will let you ask whether he knew William Brown to his knowledge.

Mr. Gladstein: Yes. I think the question calls for that, but I will have it read, your Honor.

(The question referred to was read by the reporter as above recorded.)

A. Well, Mr. Lovelace frequently spoke of his conversations with Mr. Brown and more frequently from say, about this time last, well, yes, say along about March of last year until July. The conversations he reported more frequently and at considerable length.

By Mr. Gladstein:

Q. Can you recall what was said by Mr. Lovelace in these conversations that concerned Mr. Brown or Mr. Lovelace's relationship to Mr. Brown?

Mr. Del Guercio: Well, if your Honor please, I will ob- [3234] ject to that as being purely improper.

Mr. Gladstein: Do you want a statement on it?

Presiding Inspector: Yes.

Mr. Grossman: Do you want an explanation of materiality?

(Testimony of Virgil MacMickle.)

Presiding Inspector: Well, this is rather an unusual question, I think.

Mr. Grossman: I am willing to make it if there won't be objection that I am putting some facts in advance in the record.

Presiding Inspector: I think there will be. Why don't you ask directly what you want.

Mr. Grossman: The materiality of Mr. Brown will not appear from the questions and the answers. That is why I think it is probably necessary to make an explanation. I must give you a description of what subsequent evidence will develop about Mr. Brown.

Presiding Inspector: Well, just to rule on the admissibility of this question, I will hear your explanation.

Mr. Del Guercio: We object to that, please, in the presence of this witness here.

Presiding Inspector: Then I will receive the answer. Go ahead. We will have to go a little in the dark on your promise to connect it up.

Mr. Grossman: That is right.

Presiding Inspector: You assure me that you have something to connect this up? [3235]

Mr. Groseman: Yes, your Honor.

Presiding Inspector: In your best judgment?

Mr. Gladstein: According to our theory of the case, yes.

Presiding Inspector: In your theory of the case. Very well. I will receive it.

(Testimony of Virgil MacMickle.)

By Mr. Gladstein:

Q. Now, will you answer the question?

(The question referred to was read by the reporter as above recorded.)

Presiding Inspector: When was this conversation that you are asked about, if there was such a conversation?

The Witness: Well, there were a number of them, your Honor.

Presiding Inspector: And where and when?

The Witness: Extending — in Portland, you know, where I would meet —

Mr. Del Guercio: Speak up. I can't hear you.

The Witness: I am sorry. I ordinarily talk in a loud voice and I guess I am trying to hold it down.

Mr. Del Guercio: Don't be afraid to hold it down. We want it.

Presiding Inspector: There are a lot of people in the corner of the room who want to hear you.

The Witness: Well, Lovelace and I would have social [3236] contact, naturally; and he would tell me about this episode of being out with Brown.

Presiding Inspector: When was this?

The Witness: During the—I would say, during probably the first of March, 1940.

Presiding Inspector: After you had ceased to be his physician?

The Witness: Yes, after I had ceased to be his physician and from that point on up until June the

(Testimony of Virgil MacMickle.)

conversations were a number of them. I couldn't give specific dates, of course.

Presiding Inspector: Is this to show anything except the credibility of Mr. Lovelace?

Mr. Gladstein: That is what it goes to show.

Presiding Inspector: Credibility?

Mr. Gladstein: Nothing but that.

Mr. Del Guercio: Well, if you Honor please, how could it be possible to show credibility of Mr. Lovelace here to what Mr. Lovelace might have said to this witness here to another man?

Presiding Inspector: I don't know.

Mr. Gladstein: I didn't quite understand the objection.

Presiding Inspector: I don't quite get that.

Mr. Del Guercio: I understand these conversations were between this witness and Mr. Lovelace.

[3237]

Presiding Inspector: And Lovelace?

Mr. Del Guercio: Concerning the matter—concerning the matter of which we do not know.

Presiding Inspector: Yes, concerning a matter of which we do not know.

Mr. Del Guercio: And not in evidence. Counsel hasn't said that.

Presiding Inspector: Counsel hasn't said that. He is going to show this, as being something about his credibility. I don't know what that is.

Mr. Gladstein: That is right, your Honor.

Presiding Inspector: Of course, it may be some statement which the person would naturally take to

(Testimony of Virgil MacMickle.)

be irrational. I don't know, or it may have been something——

Mr. Gladstein: (Interposing) At the risk of being accused of leading the witness, but for the purpose of getting to the meat of the question, so your Honor can see what I have in mind, I would like to put this question:

Q. Doctor, during those discussions that you had with Mr. Lovelace concerning his, Mr. Lovelace's, relationship to Officer Brown of the Portland Police Department, did Mr. Lovelace ever tell you that he was considered and had been asked by Officer Brown to become an informer for the Portland Police Department? A. Yes, he did. [3238]

Q. Did he tell you about his meetings with Officer Brown for discussions of this subject?

A. Yes, he did.

Q. And in the conversations that you had with Mr. Lovelace on this matter did Mr. Lovelace tell you that his meetings with Officer Brown became increasingly frequent on this subject?

Mr. Del Guercio: Well now, if your Honor please, I will object to that.

Presiding Inspector: I suppose this is to show that these were all irrational.

Mr. Del Guercio: Nothing has been done upon that. This witness here has testified that——

Presiding Inspector: (Interposing) This witness said that this man was irrational and he wouldn't believe him, and now this is one of those irrational statements.

(Testimony of Virgil MacMickle.)

Mr. Grossman: The relevancy of Mr. Brown and the connection between Lovelace and Brown does not go to the rationality of Mr. Lovelace at all. It goes to other bias and motives.

Presiding Inspector: He wouldn't believe him under oath, so what is the use of putting them in on any other basis?

Mr. Grossman: Not believing under oath doesn't mean that we can't believe any admissions made by a witness.

Presiding Inspector: I understand that that is the point that you are trying to make here: That I shouldn't believe Mr. [3239] Lovelace as to anything.

Mr. Grossman: We are perfectly willing to state this: That your Honor should take the view either that you don't believe Mr. Lovelace at all or if you think the evidence is insufficient on character to justify you in reaching that conclusion; if you do believe Mr. Lovelace as to character witnesses, you should believe them as to other evidence.

Presiding Inspector: We haven't had a character witness except one which is connected up in relation to Lovelace; but this witness, I mean. He connected up with his irrationality. You seek to draw the conclusion, I take it, from the testimony of this witness that Mr. Lovelace was an irresponsible person at the time that he made the statement.

Mr. Gladstein: Yes, that is one of them.

Presiding Inspector: And at the times which have been testified to by this witness. Now, how

(Testimony of Virgil MacMickle.)

can you offer this testimony, this hearsay testimony, as proof of anything.

Mr. Grossman: Well now, your Honor, in the first place we state that Mr. Lovelace was incompetent at the time the statement was made. That is the first point we are attempting on that.

Second, we claim that his reputation is such that he is not to be believed under oath. Now, I recognize that you can have ten, twenty or thirty character witnesses referring to [3240] the bad character or truth and veracity of a man and still you might believe him, because it doesn't mean that the man would lie always when he is under oath. That is the second.

Now, the third is this, your Honor: If you disbelieve those; in other words, if you are willing to believe Mr. Lovelace, what Mr. Lovelace says, then we say, according to the admissions of Mr. Lovelace, he had certain connections with and certain contacts with and carried on certain business with a William D. Brown. And we are going to show how that affected his interest and his bias with relation to Harry Bridges.

Mr. Gladstein: Could I support that, your Honor?

Mrs. Del Guercio: That is certainly remote, if your Honor please.

Presiding Inspector: It is pretty remote.

Mr. Grossman: If we are going to go into this, let me state how it is not remote, because we are

(Testimony of Virgil MacMickle.)

now discussing the relevancy of Captain William D. Brown. We intend to show—and, incidentally, the same evidence which we intend to produce, to show that we can produce it, was produced in the last deportation trial—that William D. Brown was actively working and preparing witnesses for that deportation case. We intend to show that William D. Brown was working on that case, because, or partially because, and was preparing witnesses and producing certain types of witnesses, because he was being paid sums of [3241] money by people having no connection with the Government, having no real connection with the prosecution of that case, but who had ulterior motives in paying him that money. We intend to prove and did prove in the last case that that money was received and that it was received in connection with the preparation of the Bridges deportation case, which would certainly show bias and interest of William D. Brown. And anyone who—

Presiding Inspector: (Interposing) We haven't had Mr. Brown sworn.

Mr. Grossman: Well, we have to have some order in this case.

Presiding Inspector: Oh, yes.

Mr. Grossman: And I think our promise and also by reference to Dean Landis' report, the assurance that that evidence can be produced, is sufficient to lay a basis for what this witness is testifying to.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: If your Honor please, Mr. Brown hasn't entered into this case. Or is this a new proceeding?

Presiding Inspector: He is going to be in this case, either personally or by—

Mr. Grossman: (Interposing) Now that we find he has something to do with producing Mr. Lovelace, he enters the case. [3242]

Mr. Del Guercio: Now, that statement is not in support of that statement at all.

Mr. Grossman: We intend to show that through these questions.

Mr. Del Guercio: We said "now". I don't think there is any support to that statement, if your Honor please.

Presiding Inspector: Perhaps there may be a misunderstanding between you.

Mr. Del Guercio: Well, to clear that misunderstanding,—

Presiding Inspector: (Interposing) Well, he doesn't enter the case in person. He means his name comes into the evidence. (That is all he means.

Mr. Del Guercio: To clear, then, any possible misunderstanding may we have an understanding as to whether counsel intends to prove that Mr. Brown is assisting the Immigration Service and FBI in the prosecution of Mr. Bridges?

Presiding Inspector: I think that is his statement.

Mr. Del Guercio: Is that your statement?

(Testimony of Virgil MacMickle.)

Mr. Grossman: My statement is—

Mr. Del Guercio: (Interposing) Well; now, that could be answered "Yes" or "No".

Mr. Grossman: I have *stated* to make my statement. Do you want to hear it, Mr. Del Guercio, or not?

My statement is that the evidence which we are now starting to produce, which we haven't yet produced, will [3243] start laying the basis for the proof that Mr. William D. Brown had a hand in the producing of a witness for the Government's case here: Mr. Lovelace. That I have said. That I continue to say. I didn't say the Government didn't talk to Mr. Lovelace, or the Government didn't produce him. I say that Mr. Brown had a part in producing Richard Lovelace for testimony here.

Presiding Inspector: I will take it. It may become more important, and it seems to me at this point it does become more important.

Mr. Grossman: That is right.

Presiding Inspector: Go ahead.

Mr. Gladstein: Just as, your Honor, though we don't say—

Presiding Inspector: (Interposing) You can't prove your whole case at once.

Mr. Gladstein: Just as, though we don't say that the Associated Farmers prepared the case for the Government, we do know by his own admission

(Testimony of Virgil MacMickle.)

that one of the witnesses the Government produced was procured by a man named Graham, who was the District Organizer of the Associated Farmers. And, therefore, we have a right to go into the character of that source.

Presiding Inspector: I suppose that is so. We have heard here that there is a Bridges Defense Committee, which seems to me entirely immaterial in this case.

Mr. Del Guercio: And the Communist Party.

[3244]

Presiding Inspector: And we will go ahead, I will take it. No, we won't hear any interjections of that kind.

Mr. Gladstein: Your Honor, on the question of the Bridges Defense Committee, so that the record will be clear and so that you will have this clear—

Presiding Inspector: (Interposing) Oh, I am not interested in the Bridges Defense Committee. Mr. Bridges has a right to have a defense committee. No, he can't be criticised for that, or at least he can't be found to have done anything wrong in that respect.

Go ahead.

Mr. Gladstein: Now, would you read the last—

Presiding Inspector: (Interposing) And the Government has a right to use any agency that they may see fit, of course. Now, let us go ahead.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: I have forgotten where the last question was.

Presiding Inspector: The smoke now having blown away, we will see if we can find something to fire at. I will take this. At this time it doesn't seem very material to me. It may develop so. I think that perhaps counsel will agree to that.

(The question referred to was read by the reporter as above recorded.)

A. Yes.

By Mr. Gladstein: [3245]

Q. What did he tell you about whether Mr. Brown was offering him employment or work or service of any kind?

Mr. Del Guercio: I will object to that as incompetent, irrelevant and immaterial.

Presiding Inspector: I will take it.

A. Well, the first time he made any statement—

Mr. Del Guercio: (Interposing) If the Court please, I don't want to interrupt all the time, but I really cannot hear the witness.

Presiding Inspector: No, he drops his voice.

The Witness: I am sorry. You will have to prod me.

Presiding Inspector: Well, I will do it.

A. (Continuing) The first time Mr. Lovelace discussed this matter of William D. Brown's growing intimacy with him socially, he said in vigorous

(Testimony of Virgil MacMickle.)

and profane language that they had taken advantage of his ill-condition while he was in the Veteran's Hospital and that "Bill" Brown, as he called him, was trying to play upon his old veteran association—I believe they were both veterans—to get him to desert the Communist Party and to come clean, as they put it.

Then he would tell me what kind of conversation he threw back at Mr. Brown, which was certainly something that we couldn't repeat, and then this would go on, and by and by he told me definitely one day and beyond any equivocation that they wanted him to inform on Harry Bridges, to make a statement [3246] against Harry Bridges. And in the interim he had repeatedly told me—oh, I say "repeatedly"—at least five or six occasions, your Honor, that my office had been wired with a dictaphone, and so forth. [3247]

Mr. Del Guercio: You dropped your voice down: I cannot hear you.

The Witness: I ain sorry—that my office had been wired with a dictaphone.

By Mr. Gladstein:

Q. Did he ever—

Presiding Inspector: Did you find any wires?

The Witness: To be honest, I never looked for any because I thought it was a figment of the imagination. But he seemed to be wanting to justify himself some way by it.

(Testimony of Virgil MacMickle.)

By Mr. Gladstein:

Q: Did he ever tell you in any of his last conversations with you whether he actually went into the pay or into the employ of into the service in any way of the Portland Police Department, or anybody connected with it?

Mr. Del Guercio: I object to that as being leading—not that, of course, the witness would not answer in any event—but I object to it as being leading.

Presiding Inspector: I will take it. It is leading, though. It is a matter of discretion.

A. I don't recall that he ever mentioned any stipulated fee; no.

By Mr. Gladstein:

Q. Did he ever say anything to you to the effect that he was now working with, or for anybody in the Police Department? [3248]

A. More by intimation.

Mr. Del Guercio: I object to that on the same ground.

Presiding Inspector: I will take it.

Mr. Gladstein: He says "More by intimation." I take that to mean that he has so expressed himself.

By Mr. Gladstein:

Q. Is that correct? A. Yes.

Q. You say, in one of the first conversations in which Mr. Brown's name came up, Mr. Lovelace, so to speak, in substance, denounced Mr. Brown and

(Testimony of Virgil MacMickle.)

accused him of trying to take advantage of their Legion connection. Did Mr. Lovelace's remarks concerning Mr. Brown change in the subsequent conversations?

Mr. Del Guercio: Just a moment, if your Honor please. I object to the question. In the first place, I didn't get all of it, the first part of the question; and in the second place, the question itself is improper.

Presiding Inspector: Let us find out whether he said anything later on the subject.

Mr. Gladstein: Put it that way.

Presiding Inspector: "Yes" or "No".

By Mr. Gladstein:

Q. Was anything said later on the subject, that is, after the time when he first told you, as you have described it, [3249] what he thought of Mr. Brown?

Presiding Inspector: And then what he said.

By Mr. Gladstein:

Q. Did he later talk to you about it?

A. Yes.

Q. Did his manner on the subject of Mr. Brown change later on?

A. Yes.

Q. How did it change?

A. It changed in a direction of friendliness.

Q. Toward Mr. Brown?

A. Yes; toward Mr. Brown. Well, he told me about having Mr. Brown up to dinner to his house. That was one of the things that would lead to the assumption.

(Testimony of Virgil MacMickle.)

Presiding Inspector: When was this, to the best of your recollection?

The Witness: The closest I could estimate that would be about June of 1940.

Mr. Gladstein: I would suggest this, your Honor: I see that it is almost 12:30. If we could adjourn now until 2:00 I may be able to find the law on the other question which I wish to ask, if the law is in our favor.

Presiding Inspector: We will take a recess until two o'clock.

Mr. Gladstein: Make it 2:15. [3250]

Presiding Inspector: All right; and we will sit until 4:15 to make up the time.

(Whereupon, at 12:26 P.M. a recess was taken until 2:15 o'clock P.M. of the same day.)

[3251]

After Recess

2:15 O'clock P.M.

Mr. Gladstein: Are you ready, your Honor?

Presiding Inspector: Yes.

Mr. Gladstein: You can be seated, Doctor.

VIRGIL MacMICKLE

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Mr. Gladstein: I don't claim that I have done a very exhaustive piece of legal research during the noon hour, your Honor——

Presiding Inspector: You wouldn't be expected to.

Mr. Gladstein: But starting with Dean Wigmore and, at the same time, one of my associates starting with other texts, in attempting to run down the law, this is what we find in a general way:——

Mr. Del Guercio (Interposing): If the Court please, if I may interrupt right here, my colleagues are working on the same questions and they haven't returned yet.

Presiding Inspector: Would you like to wait until they return?

Mr. Del Guercio: Yes.

Presiding Inspector: We will wait a few moments.

Mr. Gladstein: Yes, of course.

Presiding Inspector: They will be here shortly?

[3252]

Mr. Del Guercio: Yes. I suggest that we continue with the examination.

Presiding Inspector: I don't know whether they have anything more.

Mr. Gladstein: I don't think I have any other questions except on this matter.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: I assume they have no more questions except on this matter?

Presiding Inspector: They are just talking among themselves. I don't know whether he has made up his mind about it yet or not.

Mr. Gladstein: I could ask these questions while we are waiting.

Presiding Inspector: Very well.

Direct Examination

(Resumed)

By Mr. Gladstein:

Q. Doctor, are you acquainted with Mr. Bridges?

A. Yes.

Q. When did you first meet him, do you recall?

A. I think it must have been around 1936 or 1937; I couldn't be absolutely definite about that.

Q. Keep your voice up, please.

A. I say it must have been around 1936 or 1937, somewhere in that period. I couldn't tell the exact date.

Q. Do you recall the circumstances under which you met him? [3253]

A. Yes. Mr. Ed. O'Grady, the CIO chieftain there in my building, brought him up to me about some stomach trouble.

Q. You say in your building. What building were you in at that time?

A. I have been in the Guardian Building.

Q. Did the CIO regional offices in Oregon have offices in that building at that time?

(Testimony of Virgil MacMickle.)

A. Yes; they had offices on the 7th floor and I was on the 10th floor.

Q. Was Mr. O'Grady connected with those CIO offices? A. Yes, yes. He was in there.

Q. Do you know whether he was in charge of the CIO Regional Directorship?

A. Yes, he was at that time.

Q. When was the next time that you met Mr. Bridges, if any?

A. Well, I don't recall meeting Mr. Bridges personally again, though I did see him at the Oregon Civic Club's luncheon a couple of years ago when Mr. Bridges spoke before that organization, and I may have said "Hello," or something of that character. But to say that I met him, I don't believe he even remembered me, perhaps.

Q. Have you met him since that time?

A. Just today is the first time.

Mr. Gladstein: Have your associates returned yet? [3254]

Mr. Del Guercio: They have not. But I think you may go on with the argument. I think he has exhausted his examination.

Mr. Gladstein: I will go ahead, if it is all right with your associates.

Mr. Del Kuercio: I think it is. What would your Honor suggest?

Presiding Inspector: I think Mr. Gladstein may go ahead.

Mr. Gladstein: It would seem from this slight research that the privilege of physician and patient

(Testimony of Virgil MacMickle.)

did not exist in common law at all. Of course, the law in all of our states except one derives from the English common law. Dean Wigmore cites a case, a well-known case in England, the Duchess of Kingston's trial.

Presiding Inspector: There is no question about the general rule, although I think some states perhaps did think it was a part of the common law.

Mr. Gladstein: Well, what has happened, according to Dean Wigmore, is this:—

Presiding Inspector: I am quite familiar with the general topic.

Mr. Gladstein: It is a matter of statute.

Presiding Inspector: Very largely, yes.

Mr. Gladstein: About half the states have statutes on the subject. [3255]

Presiding Inspector: And I think the others have generally followed the rule as allowing this physician's privilege.

Mr. Gladstein: Here is what the cases apparently say on this.

Presiding Inspector: Of course, Dean Wigmore himself does not believe in this privilege.

Mr. Gladstein: That is true. He points out several reasons why it has no basis. Are you familiar with his argument on that?

Presiding Inspector: Oh, yes, yes. I have taught this subject. Go ahead. I have been a teacher in medical school on law for the physician.

Mr. Gladstein: I can summarize very briefly

(Testimony of Virgil MacMickle.)

what he says. He says that the claim for the privilege rests on three bases:

One is that the communication originates in confidence. His answer to that is that in the vast majority of cases that simply is not the fact; that outside of one or two diseases, such as venereal disease or something like abortion, patients do not actually seek real secrecy of their diseases, or of the things they divulge to their doctors, and they tell their intimates and friends, and so on. So there is actually no real confidence in that respect.

Presiding Inspector: People differ in that respect. [3256]

Mr. Gladstein: Well, I suppose so.

A second argument which is made for the privilege is that it is necessary, it is vital to protect that confidence in order to attain the purpose of the relationship between physician and patient. By that I take it is meant that, if people going to doctors felt that the doctors might disclose what was communicated to them by the patient, they might feel adverse to making such disclosures to their physicians and, therefore, the general public policy of having the patient properly cured would be interfered with.

But Dean Wigmore points out that, prior to the establishment of any privilege by statute in this country—the first innovation was in 1828 by a New York statute—people at least presumably went to doctors and disclosed to them what their ailments were and communicated to them and were either

(Testimony of Virgil MacMickle.)

cured or not. And since the innovation of this statutory privilege there has at least been no statistical proof to indicate that there is a sudden influx of patients to physicians when this privilege was created.

The third argument which is made in support of the privilege is that the injuries that would result from allowing disclosure resulting to the relationship of doctor to patient would be greater than the injury that will result to the processes and purposes of justice by permitting disclosure. Dean Wigmore points out that this in a general sense is not [3257] true, and I think in this particular case as applicable to Mr. Lovelace would not be true, because the question of secrecy, which is at the heart of this thing, is obviously no longer important to Mr. Lovelace.

Now, that raises the question of whose privilege this is, if any exists?

First of all, it is the privilege of the patient, not of any party. Of course, that patient no longer exists. He, I assume, may have a personal representative. That would be Mrs. Lovelace. It is possible that she would be in a position, if the privilege is considered by your honor to be applicable here, to make some objection. And technically, perhaps, it might be necessary to request of her whether she objected to this disclosure. But in a general way we can disregard that for this reason. The purpose, if any exists, only goes to the disclosure of such in-

(Testimony of Virgil MacMickle.)

information or communications as are gained during the relationship.

In the case, for example, of a hypothetical question, if I were to ask the doctor a question asking him for his opinion based on the facts that were disclosed to him, but without revealing those facts as to what the condition of the patient was, I think the law is that he has a right to answer that question.

Dean Wigmore points out—I have only found one case on that, but that case is clearly in point and holds that a [3258] physician who treated a patient does have the right, even where a statute provides that he is not permitted, to disclose communications that he has gained from the patient during the relationship, he nevertheless does have the right to answer a hypothetical question as to his opinion, as to his conclusions.

Now, on the general question of this privilege I point out this to your Honor: The modern tendency is away from the granting or recognition of such a privilege. In industrial accident procedure, for example, an administrative procedure, whether by legislation or otherwise, the almost universal tendency is not to recognize any such privilege. According to Dean Wigmore, the tendency in modern sanity legislation is along the same lines. And, although I haven't checked the cases here, there is a statement in 70 Corpus Juris at 450, with the States, I think, of California or Colorado, I am not sure, Iowa, Missouri, Nebraska, New York, South Dakota, to

(Testimony of Virgil MacMickle.)

this general effect: That physicians are permitted to testify even though it involves disclosures of communications gained from their patients on the general question of sanity and the same text cites cases in support of the proposition that this privilege, even in the states where it is recognized by statute or otherwise, does not apply in inquisitions into lunacy. Now, I think under those circumstances, your Honor, that at the very least we should be entitled to ask a hypothetical question of the doctor and, at best, we should be entitled to have the doctor [3259] relate—and I wouldn't attempt to go into the matter extremely, but simply in a general way—as to what Mr. Lovelace was being treated for by the doctor, what his condition in a general way was from time to time. I think I will have to rest out argument on that much or that little.

Presiding Inspector: You haven't examined the recent cases in New York:

Mr. Gladstein: I haven't seen that.

Presiding Inspector: We had a couple of cases during the last year in New York; one in which they extended the privilege to a legislative inquiry, I mean a municipal legislative inquiry, where they wanted to get the records from one of the hospitals in the city. They rejected the claim that they could get those, even though it was not a judicial investigation.

Mr. Del Guercio: May I interpose something?

Presiding Inspector: Yes.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: I suggest that the witness might be asked if he wishes to claim the privilege, if any exists.

Presiding Inspector: I didn't hear that.

Mr. Del Guercio: I would suggest that the witness be asked if he wishes to claim the privilege, if any exists.

Presiding Inspector: It isn't his privilege.

Mr. Del Guercio: If he has one.

Presiding Inspector: It isn't his privilege. It belongs to Lovelace. [3260]

Mr. Del Guercio: There is a question on that, is there not, as to whether a physician may claim that privilege if he were asked the question?

Presiding Inspector: I am not sure about that. The privilege can be waived by the patient, unquestionably.

Mr. Gladstein: That is right.

Presiding Inspector: What more do you really want to have that you haven't got? You have now asked him over the period of a year, and he has given statements of what he thought were unusual, remarkable occurrences; he has said that those impressed him as irrational, and he has even gone further, without objections, and said that he deemed the man irrational during that period.

What more would you want than that?

Mr. Gladstein: You see, the things for which Mr. Lovelace—

Presiding Inspector: You could have a little

(Testimony of Virgil MacMickle.)

broader basis, perhaps, for his answers, but the answers would be about the same, I suppose.

Mr. Gladstein: Except that there would probably be some medical characterization of the things from which Mr. Lovelace was suffering, and also there would be some elicitation of the treatments that were being prescribed, and for what they were being prescribed.

Presiding Inspector: He has no expert knowledge on that [3261] matter.

Mr. Gladstein: As to how he treated him?

Presiding Inspector: He can't prescribe pharmaceutical drugs.

Mr. Gladstein: When I use the word "prescribe", I mean what services he rendered for the man and for what purpose they were rendered, what he advised the man to do, and so on, and how he attempted, as a naturopath, to cure him.

Mr. Del Guercio: If your Honor please, we would suggest this: If this witness qualifies, or can be qualified, as being able to prescribe for whatever kind of treatment Mr. Lovelace had, we won't have any objection to his testifying. We withdraw our objection.

Presiding Inspector: Very well. Now, I suggest that you ask some questions along his qualifications as to diagnosis and treatment.

By Mr. Gladstein:

Q. Now, doctor, when Mr. Lovelace first came to you as a patient what did he complain of?

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: As a patient—when he first came to him as a patient. You mean—I don't quite understand the question. If the witness does, I will withdraw any objection.

Presiding Inspector: Well, this man says, this witness, that he is licensed to practice—

Mr. Del Guercio (Interposing): Practice medicine? [3262]

Presiding Inspector: No, to practice—what is it?

The Witness: Naturopathy.

Presiding Inspector: That is one of the privileges, according to the laws of Oregon, as I get it from the witness.

Mr. Del Guercio: We don't stand by that, of course.

Presiding Inspector: But that is what he is practicing, which is a recognized subject of a hygienic or medical, in a broad sense, science, I suppose, or—I am in the dark about it, Mr. Del Guercio, because, as I said earlier in the day, I never heard of it.

Mr. Del Guercio: Neither have I until today.

Presiding Inspector: I am not in any way stating anything about it, except my own inability to judge the matter. I think there should be more proof on it.

By Mr. Gladstein:

Q. I will ask it this way—

Presiding Inspector: We don't, frankly, we don't have this in my state.

(Testimony of Virgil MacMickle.)

By Mr. Gladstein:

Q. Under the Oregon laws are you permitted to prescribe in any form to patients?

A. Oh, yes. The only inhibitions are the inhibitions against pharmaceutical drugs, and the courts, the law, have made a distinction in Oregon between pharmaceutical and non-pharmaceutical drugs. Then, of course, I couldn't prescribe [3263] narcotics, because that comes under the Federal Narcotic Act and I would have no right to a Federal permit on narcotics.

Q. What kind of non-pharmaceutical drugs are you permitted to prescribe?

A. Well, for instance, I can prescribe anything that is made from roots, ~~herbs~~ or barks, like prescribing mineral waters, mineral baths; I can prescribe diet, I can prescribe special food preparations, food concentrates, for instance, like your vitamin concentrates you are using so much of now. I can prescribe capsules with a lot of the food minerals, or liquid medicines with food minerals in them. I can prescribe—perhaps it will clarify the issue if I gave you what our definition of pharmaceutical law is and then you would—

Mr. Del Guercio (Interposing): We don't want anything from the witness.

Presiding Inspector: He says—he misspoke and I don't know that you heard him. He said to clarify it he would give you their definition of pharmaceutical drugs, not law.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: Maybe I can clarify it by asking the question if he could prescribe anything that a layman could not prescribe.

Presiding Inspector: We will let you ask that in a few moments.

Mr. Gladstein: Just a moment.

Presiding Inspector: Go ahead. [3264]

Mr. Gladstein: Was there a question before the witness?

Presiding Inspector: I don't know whether there was or not.

Mr. Del Guercio: Did the Court exclude my question? I think we are entitled to that.

Presiding Inspector: You can ask it when you have the witness.

Mr. Del Guercio: This is a question on his expertness.

Presiding Inspector: He hasn't gone far enough, finished his examination as to qualifications yet.

Of course, before the final question is asked you may cross examine on his qualifications.

Mr. Del Guercio: Yes.

Presiding Inspector: Certainly. The reporter is going to read the last question.

(The question referred to was read by the reporter as above recorded.)

By Mr. Gladstein:

Q. Did you prescribe any of those for Mr. Lovelace at any time?

A. Well, I prescribed the non-pharmaceutical remedies; yes.

(Testimony of Virgil MacMickle.)

Q. First of all, did you prescribe for Mr. Lovelace for different complaints of his from time to time?

A. Oh, yes; at different times, like everybody else, he [3265] had ~~maybe~~ the grippe or ~~maybe~~ a sore back, or various other troubles that came up that needed attention; sinus infection, bad heart.

Q. Did you ever prescribe for him for dipsomania?

A. In the sense of attempting to bring him temporarily out of acute alcoholism, I never took him in hand with the idea that I would be able to cure him of dipsomania; no. That was beyond me.

Mr. Del Guercio: Will you caution the witness again to raise his voice?

Presiding Inspector: Keep your voice up.

Mr. Del Guercio: I can't hear at all.

Mr. Gladstein: Will you read the last answer, please?

(The answer referred to was read by the reporter as above recorded.)

By Mr. Gladstein:

Q. Are you in a position to say, from your observations of Mr. Lovelace, whether for a period, let us say, of approximately a year before his death, he showed apparent signs of approaching paranoia?

Mr. Myron: I object to that question, your Honor. Apparently he was asked to qualify the witness, and I don't know whether he has attempted to do that, or things he has qualified him.

(Testimony of Virgil MacMickle.)

Presiding Inspector: I will exclude that until we have [3266] heard from the other side on their examination of his qualifications. You have now gone beyond his qualifications and are asking a definite question about this case.

Mr. Gladstein: Yes. I don't quite understand the objection.

Mr. Del Guercio: He hasn't been qualified as an expert.

Presiding Inspector: He claims the right to cross examine on his qualifications before you can ask him—

Mr. Gladstein (Interposing): Before I can ask him the question?

Presiding Inspector: Yes. Before you ask any medical questions he has that right to question him on his qualifications.

Mr. Gladstein: To cross examine on that prior—

Presiding Inspector: Yes, as to his qualifications. Always. Go ahead.

Voir Dire Examination

By Mr. Del Guercio:

Q. What schools have you attended, Mr. MacMickle?

A. What schools?

Q. Yes.

A. Well, I attended first the American College of Drugless Physicians, in Chicago.

Q. American what?

A. American College of Drugless Physicians.
Then sub- [3267] sequently—

(Testimony of Virgil MacMickle.)

Q. (Interposing): Let's take that school alone. What course did you take and when did you attend there? A. I attended in—

Presiding Inspector: Did you get the name of it?

Mr. Del Guercio: No. Will you ask him again to speak a little louder.

Presiding Inspector: Try to make it clear.

The Witness: The American College of Drugless Physicians.

By Mr. Del Guercio:

Q. Drugless Physicians. When did you attend that school? A. In 1912 and 1913.

Q. 1912 and 1913?

A. I went there in the fall of 1911 and went through to 1913.

Q. Is that college still in existence?

A. I don't know. I really haven't kept—

Q. (Interposing): Where was it located at that time?

A. It was located at 42nd and Grand Boulevard.

Q. Did you take a correspondence course or did you actually go there?

A. It was a resident course.

Q. Did you attend the school?

A. I attended it; it was a resident course. [3268]

Q. From the fall of 1911, you say—

A. (Interposing) Yes; that is right.

Q. When? A. Until 1913.

(Testimony of Virgil MacMickle.)

Q. Continuously

A. No; we had three months' vacation each summer.

Q. What schooling did you have before that time? A. High School education.

Q. Did you graduate from high school?

A. Yes.

Q. Where? A. Stanhope—

Q. (Interposing) Where?

A. Stanhope—S-t-a-n-h-o-p-e—New Jersey.

Q. A four-year course? A. Yes, sir.

Q. In what year did you graduate at Stanhope High School?

A. Oh, I think it was in 1909, or 1910—somewhere along there.

Q. 1909—

A. (Interposing) Or 1910—I wouldn't swear positively as it has been so long ago.

Q. Did you have any other schooling—you say you graduated from Stanhope High School—until the time you entered the American College of Drugless Physicians in Chicago? [3269]

A. No. I took no schooling outside of high school.

Q. What did you do during that period of time, between the time you graduated from high school and the time you entered the American College of Drugless Physicians?

Mr. Gladstein: I think that is objectionable. That is going beyond the purpose of qualifications.

Presiding Inspector: I will allow it.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: If the questioning is going to his qualifications, and he says he didn't attend school during that period of time, how would that go—

Presiding Inspector: Well, he might have been doing something that helped him in some way, or hurt him in some way. We don't know. I might think of all kinds of things. I don't want to suggest them.

Mr. Gladstein: All right.

Presiding Inspector: Go ahead. What were you doing during that interval?

A. Here is what I am trying to remember. Judge: I don't know, it may have been in the spring of 1911 that I graduated from high school, because I know there was no great break between my high school—there was a summer vacation during which I worked in the dairy business, as I had done in previous summers. [3270]

By Mr. Del Guercio:

Q. What courses did you take in the American College of Drugless Physicians?

A. Anatomy, physiology, pathology.

Q. Physiology?

A. Pathology, chemistry, hygiene and sanitation, diagnosis, symptomatology, diatetics, hydrotherapy, electrotherapy, manual adjustment and mechanical manipulation of the bony framework and other structures of the body.

Q. Do you know if the records of that school are still extant?

(Testimony of Virgil MacMickle.)

A. I wouldn't have the slightest notion.

Q. Do you have a diploma from that school?

A. Yes, I have a diploma from that school.

Q. Where is it? When did you get it?

A. When did I get it?

Q. Yes.

A. I think it was issued me in 1913.

Q. 1913?

A. I believe it was either January, 1913—I mean, December, 1912 or January, 1913. I think that was it.

Q. Was it a day school or night school?

A. A day school.

Q. How many hours a day did you go?

A. Let's see! We went to school at eight in the morning and classes were out about twelve and at one-thirty we went [3271] back and stayed until about 4:30, unless there were special things that required a longer period.

Q. You went to school at 8:00 A.M.?

A. Yes, sir.

Q. And did you receive credits for all of these subjects that you have taken?

A. Yes. I had to have the credits for them or I couldn't have graduated.

Q. Who signed your diploma?

A. My diploma was signed by Dr. Speicher, who was a physician and surgeon.

Q. Will you spell it? A. S-p-e-i-c-h-e-r.

Q. S-p-e-i-t-h—

A. (Interposing) c-h-e-r.

(Testimony of Virgil MacMickle.)

Presiding Inspector: C-h.

A. (Continuing) And Dr. Crane, who was an M.D.

Q. How do you spell that? A. C-r-a-n-e.

Q. Are those two persons still living?

A. That I wouldn't know. And there was Dr. McKenzie.

Q. Did all these people sign your diploma?

A. Yes, yes.

Q. And then—

A. And then there was another fellow, whose name [3272] temporarily slipped me. Dr. Galation, M.D.

Q. Will you spell that?

A. G-a-l-a-t-i-o-n, or "a-n"; the same as in the Bible.

Q. Did you receive a degree of any kind?

A. Yes.

Q. What degree?

A. The degree was Doctor of Drugless—wait a minute; Doctor of Naturotheraphy.

Q. Doctor of Naturotheraphy?

A. Yes. I think that was it.

Q. How many persons were on the faculty of that school?

A. Oh, I suppose without taking time to count them all up, there were probably 18 or 20 on the faculty anyway.

Q. Eighteen or twenty. And what kind of buildings did they occupy?

A. They occupied a building that roughly cov-

(Testimony of Virgil MacMickle.)

ered a quarter of a Chicago block, I think it was some six or seven stories high.

Q. They occupied all of that building?

A. Yes, a great big stone building. They occupied that with their college and the sanitarium which was run in connection with it. [3273]

Q. And what tuition did you pay, if there was any?

A. I didn't—

Q. (Interposing) What tuition did you pay?

A. To be honest with you, I don't remember what tuition I paid.

Q. Was there any tuition?

A. Yes. I paid something like \$750 or something of that character. I couldn't remember.

Q. Every year?

A. What is that?

Q. For the full course?

A. For the full course.

Q. \$700 for the full course?

A. \$750 in my recollection.

Q. Well, it couldn't be more than that, could it?

A. Oh, it might have been. I don't know.

Q. How many?

A. Well, since I don't know I don't know how much more.

Q. Would you say it was more than \$800?

A. I wouldn't have any idea.

Q. Was it a thousand dollars?

A. I don't know.

Q. Was it ten thousand dollars?

A. Obviously not. [3274]

(Testimony of Virgil MacMickle.)

Presiding Inspector: He said his best recollection is that it was about \$700.00.

By Mr. Del Guercio:

Q. What text book did you use in anatomy?

A. We used Gray's text book in anatomy.

Q. Gray's? A. Gray's, yes.

Q. What did you use in pathology?

A. I think we used Dellafield and Prudden, if I am not mistaken.

Q. Dellafield? A. Yes.

Q. And who? A. Prudden; P-r-u-d-d-e-n.

Q. And in Chemistry?

A. I don't remember the chemical text now.

Q. Do you still have the two text books you used?

A. No, I have lost those long since, given them away and gotten more recent ones.

Q. Gave them away?

A. Yes, I think I gave them away to other students.

Q. You say you graduated about 1913, is that right?

A. I think it was either December, 1912 or January, 1913.

Q. Did you go to any other school? [3275]

A. Then I went back to New York City and took a post graduate course to brush up on some things that I thought they had there. The American College of Naturotherapy in New York City.

Q. And when did you attend that school?

A. How long did I attend?

Q. When?

(Testimony of Virgil MacMickle.)

A. Oh, when? That was, I would say, within the next six-months period.

Q. After your graduating from this school in Chicago? A. Yes.

Q. Within the next six months?

A. Yes, within the next six months.

Q. And what courses did you take there?

A. Well, they had a little work they were doing there in dietetics and they had some work in psychology that I was interested in.

Q. Well, did you take those courses?

A. Yes.

Q. What? You took dietetics and you took psychology? A. Yes.

Q. Anything else?

A. And some work in hydrotherapy, because that was a well known hydrotherapeutic institution.

Q. Anything else?

A. I don't recall at this time that I took anything [3276] else.

Q. For how long a period did you take this dietetics and psychology and hydrotherapy?

A. Oh, I would say roughly not more than six months.

Q. Not more than six months?

A. No. After all, I wasn't getting my beginning course there. I was merely taking some specialized—

Q. (Interposing) I didn't ask you that. What did you do after you left this American College of Naturotherapy in New York?

(Testimony of Virgil MacMickle.)

A. Then I spent the summer teaching swimming.

Q. Teaching swimming? A. Yes.

Q. After graduating from this school?

A. Yes. Is there anything dishonorable about it?

Q. For how long a period?

Presiding Inspector: Keep your voice up.

A. I taught swimming for roughly the period from, we will say, the first of June until the first of September.

By Mr. Del Guercio:

Q. June until September of what year?

A. Of 1913.

Q. 1913. And then what did you do?

A. And then I—

Q. (Interposing) Where did you teach swimming?

A. At Atlantic City, and at Lake Hopatoong, Lake [3277] Hopatoong being the biggest summer resort in the state.

Q. Well now, we don't want any such detail as that.

A. You have been pressing for details. I thought I had better give them.

Q. Now, what did you do after that?

A. I decided to come to Oregon and get married and settle down in practice.

Q. In what practice?

A. The practice of naturotherapy in the State of Oregon.

Q. And when was that?

(Testimony of Virgil MacMickle.)

A. That was in the fall of 1913.

Q. The fall of 1913 you returned to Oregon?

A. I didn't "return" to Oregon. I came to Oregon.

Q. You came to Oregon. Excuse me. All right. And you started to do what?

A. Then I opened—no, wait a minute! Let me be quite accurate. I came to Oregon and I married in the fall of 1913.

Q. Well, did you do anything before you married?

A. No, no.

Presiding Inspector: You taught swimming?

The Witness: That's all. Taught swimming.

By Mr. Del Guercio:

Q. You taught swimming? [3278]

A. Yes.

Q. And you were married when? When did you marry? When did you marry?

A. I married on the 25th of September.

Q. 25th of September, 19 what

A. 1914,—1913. 1913.

Q. And then what did you do?

A. Well, I don't remember just exactly what I did. I know I spent a good deal of time on my wife's farm, the farm owned by my wife's folks.

Q. Doing farming work?

Presiding Inspector: I think he means what did you do along the line of business.

The Witness: Well, I didn't do any. I didn't open up my office until March 15, 1914.

By Mr. Del Guercio:

Q. March 15, 1914?

A. Yes.

(Testimony of Virgil MacMickle.)

Q. And you opened up what kind of an office?

A. An office for the practice of naturotheraphy.

Q. Was that permissible under the laws of the State of Oregon?

A. That was permissible by virtue of a clause in the then existing Osteopathic Law.

Q. Were you an osteopath? [3279]

A. No, but the osteopathic law, when it was passed, was so amended as to contain a proviso that nothing in the Act should be construed to interfere with the right of naturopaths to practice naturopathy.

Q. And for how long a period did you practice?

A. I practiced under that until we got our own law through creating our own Naturopathic Board in 1927.

Q. 1927. That's the first time Oregon passed a law licensing naturopaths?

A. Licensing naturopaths, yes.

Presiding Inspector: And up to that time you practiced without any special license?

The Witness: That is correct.

Presiding Inspector: Under the right given you, as claim by reason of this Osteopathic Law.

The Witness: That's quite right. Perhaps I should add that in 1914, just to make the record complete, in 1914, I had a partner who helped me to loaf in the office while we were waiting for business and to whom I turned the office over for a period of three months while I again taught swimming.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. You taught swimming in between again?

A. Yes.

Q. Is there any connection between swimming and naturotherapy? [3280]

A. It's about the same amount as there is between law and medicine or surgery. It was a good way to earn some money to pay office expenses. Nothing disreputable about it.

Q. What?

A. I say it was a good way to earn money to pay office expenses.

Q. I didn't ask you whether it was disreputable or not.

Presiding Inspector: Well, he volunteered that.

By Mr. Del Guercio:

Q. Is there some question in your mind about it being a disreputable practice?

A. Swimming?

Q. No, naturotherapy.

A. You seem to take the attitude that there is something disreputable about swimming.

Q. Huh? You said that there was nothing in your mind about it being disreputable.

Presiding Inspector: No, no. That was in relation to swimming. He said there is nothing disreputable about it.

By Mr. Del Guercio:

Q. Is there anything disreputable about naturotherapy?

(Testimony of Virgil MacMickle.)

A. I suppose there would be about the same amount of disrepute about that as there would be about the legal profession. [3281]

Q. Well, that don't answer it.

A. I think maybe you can find the answer.

Q. Have you attended any other school since 1914?

A. Oh, yes. I have taken post graduate courses repeatedly.

Q. Post graduate courses where?

A. Well, at the Western States College in Portland.

There is a course that is recognized by the State of Oregon—

Q. (Interposing) Wait a minute! I am just asking you what courses you took and where.

A. Well, I took various specialized courses. If you want to know definitely subject by subject, I think perhaps I can remember them.

Q. I am coming to that.

A. I took special work on spinal adjustment.

Q. Where?

A. At the Western States College in Portland, Oregon.

Q. Correspondence course or residence course?

A. I said "at" the Western States College.

Q. Was it a correspondence course?

A. No. It was a residence course.

Q. What else?

A. Oh, I have taken special courses in electro-therapy at the same college.

(Testimony of Virgil MacMickle.)

Q. Electrotherapy. Anything else? [3282]

A. Yes. I have taken courses in—brush-up courses in psychology there, in dietetics and in specialized technique like the—you know, for instance, somebody comes along that has a special course in adjusting feet or manipulating the bony framework anywhere.

Q. In this at the Western States College?

A. Western States.

Q. Huh? A. Yes.

Q. Anything else?

A. Well, then, in 1921 I went East and studied psychoanalysis under Andre Tridon, who is one of the outstanding—

Q. (Interposing) I am not asking you how outstanding these persons are.

A. I am sorry, but you seem to question the authenticity of everything to the degree—

Q. (Interposing) I do question it.

Presiding Inspector: Don't get into a dispute.

The Witness: I am sorry.

By Mr. Del Guercio:

Q. Now, when was that?

A. That was in 1921.

Q. 1921. Where was that? In New York, you say? A. New York City. [3283]

Q. How long a period?

A. Oh, about two months.

Q. Two months?

A. Uh-huh (Affirmative).

(Testimony of Virgil MacMickle:)

Q. Where was that course taken?

A. That was taken at his——

Q. (Interposing) Office?

A. (Continuing) ——studio, yes.

Q. Studio?

A. Yes, you can call it an "office". I wouldn't make any——

Q. (Interposing) Well, you called it a "studio".

A. All right. Call it a "studio" if you like that better.

Q. How many attended while you were attending?

A. Perhaps I can answer that by giving you a bit of information.

Q. No, I don't want any information other than what I am asking.

A. All right, then. I will let it go at that.

Presiding Inspector: About how many were there?

The Witness: Your Honor, it wasn't—it can't in the nature of the case be a course for groups.

Presiding Inspector: Did he have other students working at the same time? [3284]

The Witness: Not at the same time.

Presiding Inspector: So far as the course that you took, the work you did under him, you were working alone under his direction?

The Witness: That's right. Directly under him and studying what he outlined and watching his cases, you see, to get the technique.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q: Did you take any other courses anywhere?

A. Oh, let's see. I don't recall having taken any others. I may not have listed all of the little post graduate courses that I have had, but I certainly haven't—

Q: (Interposing) You can't remember any more courses that you took anywhere else?

A. No, I can't.

Mr. Del Guercio: Well now, if your Honor please, in view of the testimony of this witness here it appears that he hasn't qualified for anything else but a swimmer, and I therefore object to the question.

Presiding Inspector: I think I will take it for what it is worth. Go ahead.

Mr. Gladstein: What did you say?

Presiding Inspector: I said I will take it for what it is worth. I am not saying what that is. It may be worth a great deal. It may be worth very little.

Direct Examination (Resumed)

By Mr. Gladstein: [3285]

Q. I think I can rephrase the question. Doctor, are you in a position to state whether, based on your observations of and treatment of Mr. Lovelace, he showed apparent signs of approaching paranoia?

A. That would have been my classification of his difficulty.

Q. And what is that classification based on?

(Testimony of Virgil MacMickle.)

A. Well, it was based on these two outstanding things: First, that he had delusions of grandeur, which were related to these God-like gestures that I have been telling you;—

Mr. Del Guercio: (Interposing) I object to this line of testimony, your Honor.

Presiding Inspector: I thought this was along the lines that you thought would be all right.

Mr. Del Guercio: Then I will withdraw any objection.

Presiding Inspector: I understand that. I may have misunderstood you.

Mr. Del Guercio: No, you did not.

Presiding Inspector: We will take it.

A. (Continuing) And the other was he had delusions of persecution. And then, of course, he had the typical exalted moods.

By Mr. Gladstein:

Q. Now, did it appear to you from time to time that the tendency toward paranoia on the part of Mr. Lovelace [3286] appeared to be growing stronger? A. Yes, yes, it did.

Q. Would you for my benefit in a general way simply define or describe paranoia?

Mr. Del Guercio: For whose—? Well, if your Honor please, for the benefit of the Court or just for the benefit of counsel?

Mr. Gladstein: For his benefit, too.

Presiding Inspector: Go ahead. Do you want to rephrase that?

(Testimony of Virgil MacMickle.)

Mr. Gladstein: Yes, I will.

By Mr. Gladstein:

Q. Will you be good enough, Doctor, to define or describe or explain the term that you have used, the term "paranoia"?

A. Well, it would be a little difficult to give in non-technical words and give briefly, but, briefly, one in paranoia does have delusions of grandeur and delusions of persecution and gets very ill-tempered, frequently very violent, when crossed. The technique of handling such cases, as a matter of fact, consists in avoiding crossing them whenever that is humanly possible because of the violence that is entailed.

Q. What relationship, if any, exists between paranoia and insanity? [3287]

A. Well, it is a form of insanity, surely.

Q. Would you say that it was a stage of it or a form of it?

A. It would be better described as a form of insanity.

Mr. Gladstein: I think that is all, your Honor.
Cross examine.

Presiding Inspector: Now, Mr. Del Guercio.

Cross Examination

By Mr. Del Guercio:

Q. Is there anything that you can prescribe that a lay man could not prescribe that you are permitted to treat under the laws of the State of Oregon?

(Testimony of Virgil MacMickle.)

A. Yes. I think so, because a lay man—

Q. (Interposing) Now, is there anything?
"Yes" or "No". A. Yes, I think—

Q. (Interposing) Now, what are those things that you can prescribe that a lay man cannot?

A. Well, I can prescribe electrotherapy; I can prescribe spinal adjustment and manipulation; I could prescribe colon irrigation; I could prescribe various forms of diets with which the lay man perhaps wouldn't be familiar.

Q. You say a lay man cannot prescribe electrotherapy? A. I didn't quite get that.

Presiding Inspector: Just read that. [3288]

By Mr. Del Guercio:

Q. Can a lay man prescribe for forms of diet?

A. What I had in the back of my mind when I said that is that, within the provisions of the statutes in Oregon, if one does that he collects a fee for it; in other words, functions as a professional man.

Q. Well, I am not asking you at all. What I am asking you is to state what you can prescribe to a patient that a lay man cannot prescribe. You understand the question?

Mr. Gladstein: I would like to ask for a little clarification. It seems to me the question is ambiguous. Does the question call for—

Mr. Myron: (Interposing) Is it objectionable?

Mr. Gladstein: Yes, I am making the objection.

I want to ask whether he is asking whether a

(Testimony of Virgil MacMickle.)

lay man would be qualified or whether there is a law against it. I don't understand the question.

Presiding Inspector: To clarify simply, I think that in relation to that he wants the witness to distinguish between what he would be entitled to do and what a dietician would be entitled to do.

Mr. Gladstein: I see.

Presiding Inspector: The dietician may act without a license. I suppose you don't license dieticians?

The Witness: No, that is right. [3289]

Presiding Inspector: I have never heard of such a thing.

By Mr. Del Guercio:

Q. Will you answer the question.

A. Well, yes. I think that, as I say, I can prescribe and administer X-Ray therapy. For instance,——

Presiding Inspector: (Interposing) You are devoting yourself now to diet, aren't you?

By Mr. Del Guercio:

Q. On the diet now.

A. On the diet? Oh; I suppose if a lay man knew enough about diet he could prescribe anything that I prescribe in diet. I don't see why he couldn't.

Q. Do you take X-Rays?

A. I don't in my own office. I send them to a laboratory. I often prescribe that they shall be taken.

(Testimony of Virgil MacMickle.)

Q. When you say "prescribe" how do you prescribe?

A. I write out an order to the X-Ray laboratory to X-Ray such a part of the anatomy of such and such a patient.

Q. Can't any lay man do that? A. No, no.

Q. You mean nobody can do that without going to a naturopath?

A. The X-Ray laboratories in Oregon are governed, according to my understanding of it—I think it is essentially right—they are governed by a regulation which does not per- [3290] mit them to have X-Rays taken.

Q. And you say your testimony is that no X-Ray man can go in and get an X-Ray?

A. He could go and get an X-Ray in any clinic where there was a doctor in charge of the clinic, but he wouldn't be permitted to give an X-Ray.

Q. Are you a doctor?

A. Yes, I am licensed as a doctor.

Q. What kind of a doctor?

A. A naturopathic doctor, the same as—

Q. (Interposing) Can you prescribe poisons?

A. I—no, my conscience wouldn't let me. I don't know what the law might say about that.

Q. Your conscience wouldn't let you?

A. No.

Q. Huh? A. No.

Q. Don't you know what the law of the State of Oregon is?

(Testimony of Virgil MacMickle.)

A. Well, I have never wanted to prescribe poison and I therefore never have run afoul of the law or taken the trouble to find out what the law does say on it.

Q. You are not familiar with the law of the State of Oregon? [3291]

A. I know that the law says that I can't prescribe pharmaceutical drugs.

Q. Is a poison a pharmaceutical drug?

A. Some would be and some wouldn't, within the definition that we have up there.

Q. Which would not be?

A. Well, if you will let me give the definition I think you can settle that question.

Q. Well, do you know?

A. Do I know what?

Q. What poison you could prescribe under the Oregon Act?

A. Strychnine certainly isn't a pharmaceutical drug necessarily. You can buy that in the grocery stores. I could prescribe Strychnine if I wanted to.

Q. Well, could a lay man prescribe strychnine?

A. I don't know if he could prescribe it.

Q. How do you prescribe it? Do you write down a prescription?

A. No, I wouldn't write out a prescription for strychnine.

Q. Can you write out a prescription for any drug store? A. I can write orders.

Q. I didn't ask you if you could write orders. I asked if you could write prescriptions. [3292]

(Testimony of Virgil MacMickle.)

A. All right. Let me put it this way:—

Q. (Interposing) Not “put it this way”. Put it the way—

A. (Interposing) I will answer you—

Q. (Interposing) You mean you don’t want to answer that question?

Mr. Gladstein: Just a moment! The witness has not said that and I think he should be given—

Presiding Inspector: (Interposing) Just a moment. The witness may answer the question, but if he doesn’t know what is meant by the word “prescription” the witness may say so.

The Witness: I don’t know what he means by “prescription”, frankly.

Presiding Inspector: You know what you mean.

The Witness: I know what I mean, but I don’t know what he means.

Presiding Inspector: Now, tell us whether you could prescribe within what you mean by it and then we will let you explain.

The Witness: Yes. For instance, suppose I want a patient to go to the drug store and get some vitamin concentrates. Then I simply write an order out in plain English. I don’t use the Latinized form, but in plain English for these vitamins and sign my name. [3293]

Presiding Inspector: You call that a “prescription”?

The Witness: Yes.

(Testimony of Virgil MacMickle.)

Presiding Inspector: Because they have those vitamins ready?

The Witness: That would be the type of prescription I could write, if you want to call it a "prescription".

By Mr. Del Guercio:

Q. Any lay man who could read and write could do that, couldn't he? A. No, I don't think so.

Q. You don't think so?

A. I don't think that the druggist would honor an order of that sort—"prescription", if you want to call it that.

Q. You don't know, you say?

A. No, I don't know.

Q. You have no knowledge on it at all?

A. I don't know what the druggist would do about it. I know he honors mine.

Q. You mean no lay man could go in a drug-store and write out a prescription for a vitamin tablet? Is that what you mean?

A. I never have seen it tried and I wouldn't know.

Q. Do you know Doctor Lust? A. Yes.

Q. Or a person who calls himself "Doctor Lust"? [3294] A. Yes.

Q. Did you ever study under him?

A. Yes. It was at the American College of Naturopathy in New York City.

Q. Did you ever attend that school?

(Testimony of Virgil MacMickle.)

A. Yes. I told you that earlier.

Q. Did that school ever furnish what was called "fake" diplomas? A. I wouldn't know that.

Q. You wouldn't know that? A. No.

Q. You have no knowledge on it at all?

A. No, I wouldn't have any knowledge of that.

Q. You studied under Dr. Lust?

A. Uh-huh (affirmative).

Q. Where? A. In New York City.

Mr. Del Guercio: In New York City.

May we have a recess, please?

Presiding Inspector: Yes, we will take a five-minute recess.

(Whereupon a short recess was taken.)

[3295]

Presiding Inspector: Now, you may go on.

By Mr. Del Guercio:

Q. Mr. MacMickle, you testified you had a license. A. Yes.

Q. What kind of a license?

A. License of a naturopathic physician.

Q. What does that license state what it allows you to do?

A. Well, it allows me—of course, it is issued in accordance with the naturopathic law which permits me to do the things I have been telling you, as well as minor surgery; the electrical removal of tonsils, for instance; the electrical shrinkage of turbinates.

(Testimony of Virgil MacMickle.)

Q. Have you ever done any of those things?

A. Yes; and I have been doing them for about 12 years.

Q. Anything else?

A. Yes; and the electrical removal of warts and growths, the electrical removal of polype, or the surgical removal, since that is minor surgery.

Q. Let me go back a little bit. You say you took a two months' course under Dr. Tridon— was it?

A. Not doctor; not doctor—Andre Tridon.

Q. I believe you took a course in psychology, is that it? A. Psychoanalysis. [3296]

Q. What kind of psychoanalysis?

A. Well—

Q. (Interposing) Well, let me ask you this question. Isn't it a fact that Andre Tridon is only an authority on exotic psychology?

A. On exotic psychology—what do you mean?

Q. Sexual psychology.

A. You mean *erotic*.

Q. Yes. A. Oh, that is different.

Q. I am not as smart as you are, you understand that?

Mr. Gladstein: That remark is uncalled for and I think the demeanor of counsel is—

Presiding Inspector: You should not criticize the witness. You may ask him any question you deem pertinent and helpful here.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. That is the course you took under Mr. Tridon? A. Is what the course?

Q. Sexual psychology?

A. No, no. That is only a small part of psychoanalysis.

Q. But you did take that course?

A. Yes; that is very pertinent to psychoanalysis, along with a lot of other things also. [3297]

Q. Did you ever perform an abortion?

A. No.

Q. What? A. No.

Q. You never did? A. No.

Q. Do you know a Mrs. L. F. Plank—P-l-a-n-k—of 245 Schafer Street, Portland, Oregon?

A. No, I can't say that I recall any such patient.

Q. Did you perform an abortion on her in 1929, March of 1929?

A. Well, let me see if I can even remember the patient. I certainly didn't perform an abortion on her.

Q. What did you do?

A. I don't remember the patient.

Q. What did you do in March 1929?

A. You are asking me to remember one of a great many patients.

Presiding Inspector: If you don't remember you say so.

(Testimony of Virgil MacMickle.)

The Witness: I don't remember.

By Mr. Del Guercio:

Q. Did you ever perform an abortion at any time? A. No.

Q. On any one? A. No. [3298]

Q. Did you ever attempt to perform an abortion on anyone? A. No.

Q. Didn't Mrs. Plank nearly die because of your treatment and because of your attempt to perform an abortion?

A. I don't remember the case.

Q. You don't remember.

A. No, not an abortion.

Q. Well, what?

A. Well, I don't remember Mrs. Plank's case so I can't remember.

Q. Do you remember one of your patients nearly dying in about 1929?

A. No, I don't remember that, although I have had patients who nearly died from one thing or another, and I have had some patients that did die.

Q. What caused their deaths? A. Sir?

Q. What caused their deaths?

A. Sometimes they died because they were ready to die, incurable, had a bad heart and collapsed.

Q. Did you treat them for heart disease?

A. I have treated some people for heart disease.

Q. And they died?

A. Well, frankly, let me state this—

(Testimony of Virgil MacMickle.)

Q. (Interposing) Answer the questions that I am asking you. [3299]

Presiding Inspector: Do you mean to ask him this, and if you do you may ask him: Do your patients that you treat for heart disease die? Is that it, that they die sometimes?

The Witness: They die sometimes.

Presiding Inspector: We know that some may die.

The Witness: Yes.

By Mr. Del Guercio:

Q. Did they die because of the treatment you gave them?

A. No. I have never had to sign a death certificate.

Q. Can you sign a death certificate?

A. I can; yes.

Q. Under the laws of the State of Oregon?

A. Yes.

Q. Now, will this refresh your memory, your recollection: Mrs. Plank was removed to the Portland Sanitarium by Dr. Booth because she was close to death because of treatment that you had given her?

A. Let me see—I do vaguely remember that they called me about some case that I had been treating; yes.

Q. You are beginning to have a vague recollection now?

(Testimony of Virgil MacMickle.)

A. Well, I remember a case of that general character; yes.

Q. Was that an unimportant matter in your life?

A. Well, my goodness, I don't remember all of of the people that I have treated, or what happened to all of them. [3300]

Q. What happened—you were called before whom? A. I will tell you what you do.

Q. (Interposing) I am asking you—

Presiding Inspector: Were you called before anybody?

The Witness: No, no; I was not. There was never any—

Presiding Inspector: You said something about being called. Was word sent to you?

The Witness: Yes. Word was sent to me that the woman was in the hospital.

By Mr. Del Guercio:

Q. Who sent you word?

A. If I remember rightly, her sister came into my office.

Q. Her sister? Then you do know Mrs. Plank, don't you.

A. Well, I am beginning to recollect the case.

Q. And you knew it before that, didn't you?

A. No.

Q. You knew she had a sister?

A. I know now that you bring up the case.

(Testimony of Virgil MacMickle.)

Q. And you knew that her sister sent you word that she was in the hospital?

A. She didn't send me word; she came in.

Q. And then you even knew Mrs. Plank had a sister? A. She said she was her sister.

Q. Then you assumed that? [3301]

A. No. The woman introduced herself as Mrs. Plank's sister.

Q. She introduced herself as Mrs. Plank's sister. You remember that now?

A. Yes. Why wouldn't I when my mind is being refreshed with your great help?

Q. I will give you more help. Isn't it a fact, Mr. MacMickle, that Mrs. Plank executed an affidavit on April 22, 1930, to the effect, among other things, that you had performed an abortion on her?

Mr. Gladstein: If he knows about such.

Presiding Inspector: What?

Mr. Gladstein: If he knows of such affidavit.

Presiding Inspector: Do you know anything about that?

The Witness: No, I know nothing of any such affidavit.

By Mr. Del Guercio:

Q. You know nothing of such now? Now that your memory has been a little bit refreshed it isn't vague any more, is that correct?

A. Well, I am beginning, you know, the association begins to—

(Testimony of Virgil MacMickle.)

Q. (Interposing) Did you perform an abortion, or attempt to perform an abortion on Mrs. Plank? A. No, I didn't.

Q. What did you treat Mrs. Plank for? [3302]

A. If I remember rightly, Mrs. Plank was suffering from a miscarriage when she came to my office.

Q. What did you do?

A. Well, I made an attempt to relieve her of the condition. She was in a dangerous condition.

Q. Of what? A. How?

Q. What did you do?

A. Well, I did the usual thing. I introduced an antiseptic solution, irrigation, for the purpose of stopping the encroaching infection; the same as I would do in any similar case, or the same as any other doctor would do.

Q. What else did you do?

A. Well, to the best of my knowledge that is all I did do.

Q. Did you prescribe any other treatment?

A. I don't recall prescribing any other treatment; no.

Presiding Inspector: You gave her a douche?

The Witness: Yes.

Presiding Inspector: A curette.

The Witness: Let me explain that when I say "irrigation," I mean I irrigated the inside of the womb because there were retained pieces in there.

Presiding Inspector: Did you curette?

(Testimony of Virgil MacMickle.)

The Witness: Not with an instrument; no.

[3303]

Presiding Inspector: You can't do that?

The Witness: Yes, sir.

Presiding Inspector: You didn't?

The Witness: Yes, I am permitted by law to do that.

By Mr. Del Guercio:

Q. Would you be permitted by law to perform an abortion?

A. No, I wouldn't be permitted, and no one is permitted by law to perform an abortion, unless it is a therapeutic abortion.

Q. Had a miscarriage occurred when she came to your office?

A. She was in the middle of a miscarriage; yes.

Q. Had it occurred?

A. What do you mean, "had it occurred?"

Q. You are a doctor, aren't you, or you claim to be.

A. Well, all right, but there is no point, in either the birth of a normal baby, or the development of a miscarriage, where you can say it had occurred, unless the thing is there. In the case of a miscarriage a woman may be cramping, passing large quantities of clots and—

Q. (Interposing) Had she passed a baby at the time you had her in your office?

(Testimony of Virgil MacMickle.)

A. State that again.

Presiding Inspector: The question is this: Did she pass the fetus, if there was a fetus? [3304]

A. That, I don't know.

By Br. Del Guercio:

Q. It was after you stopped treating her?

A. I never saw the fetus, and I don't know.

Q. From your examination could you determine that condition?

A. No. The condition she was in I couldn't have determined whether there was a fetus or not.

Q. What did you determine from your examination?

A. From my examination I came to the conclusion that she had, was having a miscarriage; she was passing clots and cramping, and there was a very foul odor presumed to be a discharge, and my recollection is that there was, and she was running some little temperature.

Q. Did you advise her to see a doctor?

A. No; she was in my care and I took care of it.

Q. I say, did you advise her to see a doctor?

A. No, no. She went to the hospital on her own, I think.

Q. Do you know Dr. Booth?

A. No; I don't know Dr. Booth.

Q. What did Mrs. Plank say to you when she first came to your office?

(Testimony of Virgil MacMickle.)

A. I wouldn't remember that.

Q. Do your records show, or do you keep any records? [3305]

A. Yes, I keep records, but I wouldn't say that I have records back that far because I have moved from one office to another; you know.

Q. Do you have any records on your treatment of Mrs. Plank?

A. No; I have no record on that at all.

Q. For how long a period did you treat her?

A. Well, I think that she was in the office once, and they called me to the house once.

Q. Who called you to the house?

A. I think her husband called me.

Q. You even knew she had a husband?

A. Yes; I remember Mrs. Plank had a husband.

Q. What did you do when you visited her house?

A. When I went to the house?

Q. Yes.

A. I don't recall exactly, but I think I again irrigated her.

Q. Did you have a nurse? A. No.

Q. Did you ever have a nurse?

A. Yes; I have nurses right along.

Q. Did you have a nurse when Mrs. Plank came into your office?

A. I don't believe I had one at that time. [3306]

Q. What else did you do at Mrs. Plank's home regarding her treatment?

(Testimony of Virgil MacMickle.)

A. I think I gave her a spinal adjustment at the base of the neck to relieve a headache she was complaining of.

Q. Now, when did her sister come to your office?

A. Well, let me see,—I was called to the house on a Sunday morning, as I remember, and I should say it was four or five days later that her sister came in.

Q. What did the sister say?

A. She wanted to know what treatment I had given her sister, and said that she was out at the Portland Sanitarium; that she had a kidney blockage; that she hadn't passed urine for, I think she said, 67 hours, and the doctors out there were very baffled to know why this should be, and they thought that it might be helpful if they knew what I had done; whereupon I called the doctors.

Q. What doctors did you call?

A. I called Dr. Frishie—F-r-i-s-b-i-e.

Q. He is not a naturopath?

A. No; a physician and surgeon.

Q. What did you say to him?

A. I told him the young lady was in there and that the case was out at the Portland Sanitarium. They wanted to know what I had done, and would I tell him.

Q. Did you tell him what you had done? [3307]

A. Yes.

(Testimony of Virgil MacMickle.)

Q. What did you tell him?

A. I told him, as I told you, that I simply went about and douched this woman out and irrigated her, and he said, "Doctor, I wouldn't worry about that because those cases oftentimes, even as in child-birth, have kidney blockage."

Q. Is Dr. Frisbie still living? A. Yes.

Q. Did you go out to the hospital?

A. No; I didn't go to the hospital.

Q. You didn't visit the girl any more after that?

A. I was off the case. They had taken it out of my hands.

Q. Were you given any fee for what you had done?

A. I don't remember whether I was paid anything or not.

Q. Did you demand payment?

A. I think there was a deposit made when the woman first came in.

Q. A deposit made? A. A retainer.

Q. A retainer?

A. I would say about \$5.00, or something of that sort, what I would consider a fair price.

Q. Did you ever submit a bill to her?

A. No. [3308]

Q. What did you retain that money for, what was the retainer fee for?

A. Simply the treatment I gave her.

Q. You mean you took it in advance?

A. Yes; they paid me that \$5.00.

(Testimony of Virgil MacMickle.)

Q. Before you gave the treatment?

A. No, no no. I didn't say that. I said they paid me \$5.00.

Q. When did she pay the \$5.00?

A. I think she paid me \$5.00 that afternoon when they first came in.

Q. "They"—was there more than one person?

A. She and her husband were in together. Her husband brought her over because of the condition she was in.

Q. Who gave you the money?

A. I think he gave me the money.

Q. Before or after the treatment?

A. Afterwards.

Presiding Inspector: Hold your voice up.

The Witness: I will try to. Personally, I am getting thirsty.

Presiding Inspector: We will let you have a drink of water. Officer, will you get some water for the witness?

Mr. Del Guercio: If the witness needs a drink I would be glad to wait. [3309].

Presiding Inspector: Yes. I said we would get him a drink.

By Mr. Del Guercio:

Q. Do you want to wait until after you have had your drink?

A. I think I can carry on for a moment or two longer.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: We don't want to hurt you.

Presiding Inspector: Go ahead. Ask your next question.

By Mr. Del Guercio:

Q. How much did you tell Mrs. Plank or her husband you would charge for whatever treatment you were to give her?

A. I don't recall whether I made them an overall price or not. I frequently take a fee for the treatment given and let it go at that.

Q. Did you receive more than \$5.00 from Mrs. Plank, or from her husband, or from her sister, or from anybody else?

(Whereupon the witness was given a drink of water.)

Mr. Del Guercio: Will you read the question, please?

(The question referred to was read by the reported as above recorded.)

A. No. I wouldn't recall any other fee than \$5.00. I just said, when I stated that, I think that \$5.00 was what they paid me. I know I received no subsequent payment or asked any.

By Mr. Del Guercio:

Q. You didn't ask for any? [3310]

A. No.

Q. Didn't you do anything to earn more than \$5.00?

(Testimony of Virgil MacMickle.)

A. I didn't feel that I had. Ordinarily \$2.50 for an office treatment is about all I charge.

Q. She was once at your office and you visited her once at her home?

A. That is right. When I am taking care of a patient at my office I don't run up an excessive bill, or when I call at their residence. If I have to go a long distance away I might want mileage.

Q. But you never submitted a bill after that to Mrs. Plank?

A. I don't recall ever submitting a bill.

Q. When did you destroy your records on Mrs. Plank, if you destroyed them?

A. Well, you are asking me a question I couldn't tell, because, as I say, I moved from the building where I then was and went over to take charge of a big clinic in the Bedell Building and naturally I—then, subsequently when that clinic was closed why, I went down to the Guardian Building, where I later met Mr.—what is his name—the CIO man.

Q. You still haven't stated what you did with those records, whether you destroyed them?

A. I didn't destroy them. I presume I lost them. I wouldn't know where to look for them now. [3311]

Q. How did you lose them?

A. I suppose in moving. That is why I am telling you about the moving.

Q. Did you lose all your records in moving?

(Testimony of Virgil MacMickle.)

A. I think I lost the most of them; I don't know.

Q. You don't know whether you did or not?

A. Well, frankly, I am not home to go through my basement and all of the boxes there in the basement to find out whether I have those particular records or not.

Q. Then how do you know you lost them?

A. I as saying I presume I lost them; I don't know. I haven't them in my office.

Q. You said you might have them down in your basement?

A. Yes.

Q. You have records down there in your basement?

A. I probably have some records down there, but I don't even know for sure.

Q. You don't know whether you lost any records or not, isn't that a fact?

A. I sent the records, and all the stuff I wasn't needing in my office, out to the basement.

Q. You didn't lose any records, then, did you?

A. I can't swear whether I lost them or whether they are in the boxes down in the basement. That wouldn't make any difference to me. [3312]

Q. Your testimony is that you did not lose any records, is that right?

A. I am saying that—

Presiding Inspector: That isn't his testimony. I think we understand. He said he had a lot of

(Testimony of Virgil MacMickle.)

records in his basement there in boxes, and whether these records are there or not he doesn't know.

Mr. Del Guercio: His previous—

Presiding Inspector: That is all right. He testified before on that.

By Mr. Del Guercio:

Q. When did you join the Communist Party, Mr. MacMickle?

A. I never joined the Communist Party.

Q. At any time?

A. No; not at any time.

Q. Have you ever attended Communist Party meetings?

A. Those that were open to the public, the same as I have attended Republican rallies or Democratic rallies, or things of that sort.

Q. The same as you have attended Democratic and Republican meetings. In what cities did you attend these Communist Party meetings?

A. Oh, I have attended Communist Party meetings in Portland.

Q. Since when? [3313]

A. Oh, I suppose during the last ten years or more. I don't mean I have been a steady attendant at those meetings, but I have gone to them along with other people.

Q. Well, Mr. MacMickle, you have testified here that you know Mr. Bridges. You have testified that you know Mr. Lovelace and Mrs. Lovelace

(Testimony of Virgil MacMickle.)

Now, this hearing here is for the purpose of determining whether or not Mr. Bridges here, who is an alien, is subject to deportation as a member of an organization which, among other things, distributes, circulates, literature advocating the overthrow of the Government of the United States by force and violence. The Government is attempting to show, or to establish that the Communist Party is such an organization. Your testimony as to whether you are a member of the Communist Party is material, we think. In view of that I want to ask you again, have you ever joined the Communist Party, or if you were a member of the Communist Party under any of its names?

A. I never even applied for membership in the Communist Party, much less having a membership.

Q. Under any name?

A. Well, what do you mean "under any name?" As far as I am concerned, there is a Communist Party and that is all.

Presiding Inspector: Under any name besides your own.

The Witness: No, no; certainly not.

By Mr. Del Guercio: [3314]

Q. Have you ever used an alias?

A. No. I have never found that necessary.

Q. What.

A. I have never found that necessary.

Presiding Inspector: He said, "No, I have never found that necessary."

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Were you ever made a member of the Communist Party? A. Not to my knowledge.

Q. Not to your knowledge. Isn't it a fact that you have been a member of the Communist Party, a member of the Professional branch of the Communist Party? A. No, it is not a fact.

Q. Now, you were a member of the Friends of the Soviet Union, were you not?

A. Yes; I was a member of that at one time.

Q. When?

A. Well, let me see. I should say roughly in the period of, oh, I don't know, 1928 or 1929.

Q. We will give you every opportunity, Mr. MacMickle, to recollect. When were you a member of—

Mr. Gladstein (Interposing): Are these remarks by counsel necessary in his cross-examination?

Mr. Del Guercio: I haven't finished my question.

Presiding Inspector: I don't know. [3315]

Mr. Gladstein: I am asking your Honor.

Presiding Inspector: Go ahead.

By Mr. Del Guercio:

Q. When were you a member of the Friends of the Soviet Union?

A. I think, roughly, in that general period from, say, somewhere in the five-year period of 1928 to 1933; somewhere in that period.

Q. Did anyone solicit your membership in the Friends of the Soviet Union?

(Testimony of Virgil MacMickle.)

A. I was donated a membership, as a matter of fact.

Q. By whom?

A. I forget who the party was now. It was one of the existing members, but I couldn't recall who it was.

Q. If I gave you a chance to recollect would you be able to do so, gave you a little time?

A. What?

Q. If I gave you a little time could you recollect who the party was?

A. No, I don't know that I could because there were a good many people that belonged, ministers, doctors, and lawyers as well as—

Q. (Interposing): And Communist Party members?

A. I think probably there were Communist Party members in the organization; yes. [3316]

Q. Do you know some of them, who some of them were?

A. I didn't know definitely that anyone was a communist Party member, but I assumed that there would be some in there.

Q. Now, when were you a member of the Council for Economic Research of the Commonwealth Federation?

A. No, there is no such organization.

Q. Or some such similar organization?

A. I, as a matter of fact, founded, or helped to found, the Council for Social and Economic Research.

(Testimony of Virgil MacMickle.)

Q. With whom?

A. Well, with a group of engineers principally. It came about quite accidentally. I was asked to address a luncheon of the Engineers' Society—

Q. (Interposing): Who asked you to do that—I mean, to organize this organization?

A. They asked me, said, after the discussion, that it would be nice if we had meetings at least once a week, and discuss social and economic problems.

Q. Who was that, who do you mean by that?

A. These engineers.

Q. Who were they, what were their names?

A. Oh, well, I couldn't remember now all of them.

Q. Some of them?

A. Well, I will tell you frankly I could mention most of them but I hesitate to do it under the circumstances because I [3317] don't want to involve them in—

Q. (Interposing): You mean there is something connected with that organization that would embarrass them?

A. I mean what you make out of the whole thing I wouldn't be surprised at anything.

Q. You don't want to name them because you don't want them embarrassed?

A. I don't want them bothered by—

Mr. Del Guercio (Interposing): I think, if your Honor please, that the witness should be instructed to answer that question.

(Testimony of Virgil MacMickle.)

Presiding Inspector: No objection, I suppose?

Mr. Gladstein: Is it material?

Presiding Inspector: I think it is.

A. All right, I will mention them—Mr. Coon—C-o-o-n—who is an engineer; Mr. John Cunningham; a man by the name of Houser.

By Mr. Del Guercio:

Q. H-o-u-s-e-r?

A. I can't be sure of the spelling of that name, whether it is "H-o" or "H-a". I think one man's name was——

Q. (Interposing): Morris Rapport?

A. No. He was not an engineer.

Q. Do you know Morris Rapport?

A. Yes, I have met him. [3318]

Q. Was he one of the founders?

A. No, he had nothing to do with the organization.

Q. Did he suggest to you that you join the organization?

A. No, no. We had the organization going before I ever knew Morris Rapport?

Q. You know who Morris Rapport is?

A. Certainly, I know him. He is well known all over the Northwest.

Q. Is he a well known Communist?

A. Yes. He is a Communist organizer; District Organizer.

Q. Can you name any other names?

A. They don't occur to me now.

(Testimony of Virgil MacMickle.)

Q. You have exhausted your knowledge, the names of all of the people?

A. Yes. I have exhausted my recollection of the twenty-odd that were there. I would know some of them by face if I saw them. I might not know them by name.

Q. Did you ever attend any IWW meetings, Mr. MacMickle?

A. IWW meetings?

Q. Yes.

A. No. I don't—yes, sure. I addressed the IWW, yes, down in their hall on Third and Burnside.

Q. You recall that?

A. What? [3319]

Q. You recall that?

A. Yes. I recall addressing them because I was asked to address them on psychology.

Q. You addressed them on psychology?

A. On psychology.

Q. And when was that, Mr. MacMickle?

A. What is that?

Q. When was that?

A. Oh, that was, say, somewhere—it was subsequent to my going East in 1921 to study psychoanalysis.

Q. About nineteen years ago?

A. Well, it might have been subsequent to—you know, anywhere in that period.

Q. Where did you address them?

A. In their hall.

Q. Where?

(Testimony of Virgil MacMickle.)

A. It was on Third and Burnside Streets in Portland.

Q. In Portland, Oregon?

A. Uh-huh (affirmative).

Q. For how long did you speak to them?

A. Well, I never kept track of how long I spoke. You know, I could speak until I had exhausted the possibility of the subject I was talking about or the patience of my audience and then quit.

Q. Who invited you to speak? [3320].

A. Oh, I would want to—I suppose one of the men who were in charge of getting the speakers.

Q. You mean one of the members of the IWW?

A. I suppose so.

Q. And on what did you say you spoke?

A. On psychology.

Q. On psychology?

A. Uh-huh (affirmative), particularly the psychoanalytical aspects of it.

Q. Was there anybody but a group of IWW present at that meeting?

The Witness: I couldn't hear you.

Presiding Inspector: Read the question.

(The question referred to was read by the reporter as above recorded.)

A. Oh, I would suspect there might be other people because I had been giving a lot of talks on psychoanalysis before churches and lodges and so forth, and I had a following of people who followed me almost to any place I spoke.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Now, this was after you had studied under Mr. Tridon? A. Yes, that's right. Tridon.

Q. Did you among other things at that time make this [3321] statement in your speech: "Under our capitalistic economic system woman's only salvation is prostitution."?

A. No. I didn't make that statement.

Q. You didn't make that?

A. No, no. I wouldn't make such a statement as that.

Q. Did you make any such similar statement?

A. No, indeed.

Q. Huh? A. No.

Q. In substance? A. No.

Q. Huh? A. No, indeed.

Q. You are sure of that?

A. Absolutely so.

Presiding Inspector: He has said so six times. Let us go ahead.

Mr. Del Guercio: I didn't count it, your Honor.

Presiding Inspector: Ask the next one. Well, I did.

By Mr. Del Guercio:

Q. Now, were you ever a member of the American Peace Mobilization, Mr. MacMickle?

A. No. Wait a minute! I participated in some sort of peace meeting which was held last summer in Portland in one of the schools. [3322]

Q. One of the where?

(Testimony of Virgil MacMickle.)

A. In one of the school houses.

Q. Shattuck School, wasn't it?

A. Shattuck School, that's right.

Q. And you never became a member of the American Peace Mobilization?

A. No. The only thing that I can recall that happened there that day was that while I was out in the hall, I was nominated as a delegate to the Chicago convention.

Q. You were nominated as a delegate?

A. Yes, I was.

Q. Who nominated you?

A. That I don't know because I was out when the nomination occurred, and when I came back in and saw that I had been nominated I just simply said I couldn't afford to go, and that was the end of it.

Q. Did you accept the nomination?

A. No. I wasn't there to accept the nomination. I was out when the nomination was made.

Q. You say that you didn't go to Chicago?

A. No, no. I didn't go to Chicago. I probably would have had I had the money and the time to spare.

Q. Is the American Peace Mobilization a Communist front organization?

A. Not so far as my knowledge was concerned.

[3323]

Q. You didn't know it at that time?

A. Well, I don't know that it is yet.

Q. You don't?

(Testimony of Virgil MacMickle.)

A. No, I certainly have no such information.

Q. Is the Friends of the Soviet Union a Communist organization?

A. It wasn't when I belonged to it.

Q. When did it become such?

A. I don't know that it is. I don't even know that it exists at the present time.

Q. Do you know William Pennock?

A. Who?

Q. P-e-n-n-o-c-k?

A. I can't recall anybody by that name.

Q. Did you ever speak in Portland for funds to send delegates of the American Peace Mobilization to Chicago?

A. No. I don't recall speaking for funds. I might have spoken for funds, I don't know. I wouldn't be ashamed to admit it if I remembered that I have done so, because I think it is a worthy cause and would have been glad to participate in any helpful way I could.

Q. Do you know who the founders of the American Peace Mobilization are?

A. No, I don't know who they are. I knew the names. There were a great many distinguished names of American citizens on the stationery and on the official literature, and certainly I wouldn't have identified some of them as anything other than outstanding citizens, those that I knew about.

Q. Do you know Clifford O'Brien?

A. Yes. I know Clifford O'Brien.

(Testimony of Virgil MacMickle.)

Q. Was he a member of the American Peace Mobilization?

A. I don't know whether he is a member or not. I know he was on the platform at that meeting, yes.

Q. Was he nominated as a delegate at the time you were?

A. I think he was nominated as a delegate.

Q. Do you know him to be a friend of Bridges?

A. No, I don't know.

Q. Do you know James Fantz?

A. Yes, I know James Fantz.

Q. He was nominated as a delegate?

A. Yes, that's right. He was nominated.

Q. Do you know that James Fantz is a member of the Communist Party?

A. No, I don't.

Q. You never heard of it?

A. No, I never heard.

Q. Do you know Julia Bertram?

A. Yes, I know Julia Bertram.

Q. Do you know that she was nominated as a delegate?

A. Yes, she was nominated as a delegate. [3325]

Q. Did you know that she was a member of the Communist Party?

A. No.

Q. You never heard of it?

A. No, I never heard that Julia Bertram was a member of the Communist Party.

Q. You never heard that?

A. You see, the Communist Party doesn't tell me a lot of things.

(Testimony of Virgil MacMickle.)

Q. Doesn't tell you a lot of things?

A. Well,—

Q. (Interposing): What things did they tell you? You infer that they might tell you some things.

A. You inferred it. I didn't imply it.

Q. Do you know Joseph Chernis?

A. Yes, I know Joseph Chernis.

Q. Was he also nominated as a delegate to Chicago?

A. My recollection is that he was.

Q. Did you know him as a member of the Communist Party? A. No.

Q. Did you ever hear of it? A. No.

Q. Did you ever belong to the American League Against War and Fascism, Mr. MacMickle? [3326]

A. Yes.

Q. When did you join it?

A. I don't rightly remember just when I joined that, to be honest with you.

Q. Is that organization still in existence?

A. Well, I don't know.

Q. Huh? A. I wouldn't know.

Q. Well now, in what year did you join it?

A. I couldn't tell you that. I wouldn't remember what year it might have been.

Q. Where did you join it?

A. In Portland.

Q. Under your right name?

A. Yes, under my right name.

(Testimony of Virgil MacMickle.)

Q. For how long a period did you remain a member?

A. Oh, I think roughly during the period that the Reverend Nathan B. Ackerman was its President and Major Laurence A. Milner was its Secretary.

Q. And for how long a period was that?

A. Oh, I think that was a year or such a matter.

Q. Did you subsequently drop out?

A. Yes, I dropped out.

Q. Why? [3327]

A. Oh, partly because I don't have time to belong to all these things and take care of my professional duties.

Q. Your what kind of duties?

A. My professional duties.

Q. Any other reason for dropping out?

A. No. I think the thing eventually was disbanded in Portland. I don't know any subsequent history of it.

Q. Did you drop it before it was disbanded?

A. I don't know whether the date would coincide or whether it wouldn't, to be honest with you. I am not a great person to be attending organizations. I don't belong to organizations ordinarily; not even fraternal ones.

Q. I didn't ask you if you belonged to fraternal organizations.

A. No, I know you didn't. I am sorry.

(Testimony of Virgil MacMickle.)

Q. Was it disbanded about the time that Hitler and Stalin entered into an agreement, into an agreement or treaty?

A. Well, in the first place you are assuming that Hitler and Stalin did enter into an agreement, which I know nothing about.

Q. Oh, you don't know that?

A. No. I don't know anything about that.

Q. Do you know as to whether or not the American League Against War and Fascism was reformed into the American League for Peace and Democracy? [3328]

A. No, I wouldn't know that.

Q. Did you join the—

A. (Interposing): No.

Q. (Continuing): —the American League for Peace and Democracy? A. No.

Q. And do you know that the American League for Peace and Democracy was subsequently reformed and is now the American Peace Mobilization? A. No, I didn't know that.

Q. Huh? Yet you were a member of the American Peace Mobilization and you were a member of the League Against War and Fascism?

A. Yes.

Q. Do you know that Mr. Bridges was one of the sponsors of the League Against War and Fascism? A. I don't recall knowing that, no.

Q. Huh? Did you ever see his name on any of the letterheads of the—

A. (Interposing): I might have. I suppose I

(Testimony of Virgil MacMickle.)

was so struck by the name of Bishop O'Connell——

Q. (Interposing); I am asking you if you saw Mr. Bridges' name on any of the letterheads of the American League Against War and Fascism?

A. No, I don't recall. [3329]

Q. What?

A. I don't recall having seen it.

Q. You might have seen it?

A. It might have been there.

Q. It might have been there?

A. You perhaps have copies to verify that by.

Mr. Del Guercio: I move, if your Honor please, that the witness' last remark be stricken from the record.

Presiding Inspector: Strike it out. Ask the next question.

By Mr. Del Guercio:

Q. Now, Mr. MacMickle, you are familiar with the WPA Theatre Project there in Portland?

A. What?

Q. WPA Theatre Project?

A. Yes. I know something about the WPA.

Q. Do you remember a time they were producing a play "Night Must Fall"?

A. Yes. I remember that play.

Q. In May, 1939?

A. I suppose it was about that time.

Q. Do you remember going over there to observe their production of that play?

A. Yes, I was there.

(Testimony of Virgil MacMickle.)

Q. Did you go over there with anyone? [3330]

A. What?

Q. Did you go over there with anyone or did you take anyone with you?

A. I'm not sure now. It seems to me I had my wife and daughter with me.

Q. Let me refresh your recollection, Mr. MacMickle. Didn't you on or about May, 1939, take Pritchett and Morris Rapport over to see the actors play? A. No.

Q. Produce the play? A. No.

Q. Did you accompany them? A. No.

Q. Were you present when they were present?

A. I wouldn't know if they were there. I never saw them there.

Q. You know Morris Rapport?

A. Yes, I know him.

Q. You know Harold Pritchett?

A. Yes, I know Harold Pritchett?

Q. What?

A. Pritchett, he pronounces it.

Q. Pritchett. And you know them as being members of the Communist Party, both of them?

A. No. I don't know any such thing about Pritchett.

Q. You know about Rapport? [3331]

A. Yes, because Rapport never made any pretense otherwise.

Q. Pritchett never did admit it, that he was a member of the Communist Party?

(Testimony of Virgil MacMickle.)

A. No, and I never heard any allegation made by anybody that he was.

Q. Did you ever take Mr. Bridges to see that produced? A. No.

Q. That play? A. No.

Q. At any time? A. No.

Q. Were you ever present when Mr. Bridges was there?

A. No, not to my knowledge I never saw Mr. Bridges there.

Q. Now, Mr. MacMickle, this Andre Tridon under whom you took the two-month course, you knew him at the time as the author of "The New Unionism", one of the IWW books?

A. No. I knew of him only through reading his books on psychology, and there were a number of them in the public library and I bought them from Gill's book store and came in contact with his ideas on the subject, and they seemed rational and in keeping with what we knew about physiology and psychology.

Q. Did you ever read his book on "New Unionism"?

A. No. I never did. I never knew anything about that.

Q. When did you first find out that he was the author [3332] of "The New Unionism"?

A. When you told me just now.

Q. This is the first time?

A. I never heard of that before.

(Testimony of Virgil MacMickle.)

Q. And you know it to be a book published and circulated by the IWW?

A. No. I wouldn't know that.

Q. You don't know that?

A. No. I don't know a thing about the thing. This is my first acquaintance with the thing at all.

Q. Mr. MacMickle, you said that you treated the deceased Mr. Lovelace for a period from about 1933 to about 1939. Is that correct?

A. Roughly during that period I treated him, you know, for one ailment or another at various times. Yes.

Q. Well now, what did you treat him for?

A. Well, I treated him for minor things, like colds. He had the usual amount of colds in the head and on the chest.

Q. What would you prescribe for a cold?

A. Well, the principal thing, of course, as anyone else would, rest and plenty of liquids, especially fruit juices to build up his vitamin content; keep the bowels open; and then we treated him with these short-wave diathermy, which was very—

Q. (Interposing): Did you charge him for that? A. No, I didn't charge him for it.

Q. No fee? [3333]

A. No fee. If I had charged him it would have been a charge.

Q. Was he a friend of yours?

A. What?

Q. Was he a friend of yours?

A. Well, he was down and out and I felt sorry

(Testimony of Virgil MacMickle.)

for him and I treated a lot of people the same, and so did every other doctor.

Q. Down and out. You knew that he was a seaman pensioned from the Government?

A. I didn't know that for a long, long while.

Q. You knew that he was a veteran?

A. I knew that he was a veteran.

Q. You knew that he had a right to go to the Veteran's Hospital for treatment?

A. And I knew that he was there at times.

Q. And you knew that he was being treated at the Veteran's Hospital for a period of time?

A. He was treated off and on for one thing and another.

Q. Did you ever treat him for anything that they treated him for at the Veteran's Hospital?

A. Yes; he wasn't satisfied with the results that they were getting on his heart and I treated him for heart trouble. [3334]

Q. You mean that he told you that he wasn't satisfied with the results that he was getting from the Veteran's Hospital?

A. Yes. He told me that he wasn't satisfied and that's why he didn't stay there.

Q. Did you believe him?

A. At the time I was treating him for that he hadn't undergone the mental and moral degeneration that he did later.

Q. Oh, he hadn't undergone this moral degeneration at the time you were treating him?

(Testimony of Virgil MacMickle.)

A. Not for heart trouble; no, sir.

Q. Did he become a moral degenerate because of the treatment that you gave him?

The Witness: Am I supposed to answer a question of that character?

Presiding Inspector: Well, there is no objection from the other side.

Mr. Gladstein: It is obvious that the cross examiner has been more than insulting, but I take this position, your Honor: I rather take the position of having the witness answer the questions regardless of what they are. But when a question—

Presiding Inspector: I will exclude the question.

Mr. Gladstein: When a question—

Mr. Del Guercio: (Interposing) He has already excluded it.

Presiding Inspector: I will exclude it on the ground that [3335] it doesn't advance the hearing.

By Mr. Del Guercio:

Q. Was the deceased Mr. Lovelace a moral degenerate, as you have testified, at any time during the time that you were giving him treatments?

A. Well, I think when I was treating him for the after effects of gonorrhea, perhaps his degeneracy—

Q. (Interposing) Were you treating him for gonorrhea?

(Testimony of Virgil MacMickle.)

A. The "after effects" I said. I could treat him for gonorrhea, too. I mean, it is legal for me to do that, but I didn't treat him for that because he went to the Veteran's Hospital for that, according to his own admission.

Q. And you were a close friend of Mr. Lovelace up until when, Mr. MacMickle?

A. Why, I regarded myself as a good friend of Mr. Lovelace until his death, because I had no animus toward him.

Q. Oh, he was your good friend up until the time of his death?

A. I mean, I was friendly.

[3336]

Presiding Inspector: That is what he says.

The Witness: Yes, I was friendly to the extent that I was willing to do anything I could do for him.

Presiding Inspector: That is his testimony. That is all. Ask the next question.

By Mr. Del Guercio:

Q. Did you visit him at his home? A. No.

Q. Did you ever visit him at his home?

A. Yes. I was entertained at his home, I think it was, a year ago last Summer.

Q. How did you go there? Were you an invited guest?

A. Yes. I was an invited guest; went there and had dinner and stayed overnight.

Q. You had dinner at his home? A. Yes.

(Testimony of Virgil MacMickle.)

Q. Did you think him a moral degenerate at that time?

A. No. I don't think that the process had set in at that time.

Q. But it had had its beginning prior to that time?

A. Oh, it could have had some beginnings. But, then, it is a very hard thing to say that a process set in here, just like saying night becomes night suddenly.

Q. Up to that time when you had those social visits at his home, he was a good friend of yours?

[3337]

A. I think he was a good friend of mine. I was willing to take care of him and see him through his difficulties.

Q. Up to that time did you believe him?

A. Yes. I think for the most part I believed him. I felt that he was inclined to pull the long bow once in a while. He was already showing evidences of exaggerating his tales. That had set in for some time and everybody was discounting some of the things.

Q. Is that an answer to my question?

A. Yes.

Q. Now, you have testified, Mr. MacMickle, that the deceased Mr. Lovelace was irresponsible and irrational. During what period of time was he irresponsible and irrational?

(Testimony of Virgil MacMickle.)

A. Well, I would say roughly for about a year and a half prior to his death with increasing intensity in the condition during the last year.

Q. During the last year. Was he irresponsible and irrational when you had dinner at his home the last time?

A. No, I wouldn't say that he was—

Q. (Interposing) That was less than a year ago, was it?

A. No. I said a year ago last summer.

Q. A year ago last summer?

A. Uh huh (affirmative).

Q. You said that—you also testified, I believe that Mr. Lovelace borrowed money from you?

A. Yes, that's right. [3338]

Q. And you loaned it to him?

A. Uh huh (affirmative).

Q. How much did you loan him?

A. Oh, on one occasion there was \$5.00, which he subsequently denied having borrowed; and then the others would run anywhere from two-bits to a dollar or maybe two dollars.

Q. Did you keep a record of the money?

A. No. I didn't keep a record of the money.

Q. And he never paid you back that money, did he?

A. No.

Q. None of it?

A. No.

Q. And when was the last time that you loaned him any money?

(Testimony of Virgil MacMickle.)

A. Oh, I would say possibly about a year ago at this time.

Q. About a year ago this time?

A. Yes.

Q. Did you intend for Mr. Lovelace to repay you?

A. I didn't count on his repaying me because he was always hard up. I was always buying him meals. Every week there would be one or two days—

Q. (Interposing) And you testified that you loaned him money?

A. Yes, I testified that I loaned him money.

[3339]

Q. Was he irrational and irresponsible when you loaned him money? A. Yes.

Q. But you loaned him money?

A. Yes. And I considered it a gift. He always asked for a loan and I made it a gift in my own mind.

Q. Did he ever lend you any money?

A. No.

Q. What? A. No.

Q. Are you sure of that?

A. Yes. I am sure of that because he never had any to lend.

Q. Huh?

Presiding Inspector: He never had any to lend.

Next question.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Did you ever ask him for any money?

A. No.

Q. Huh? Did you ever ask him for \$5.00?

A. No, I never did. He would be the last man in the world I would ask for \$5.00.

Q. Do you have any other income, than from what you receive from your practice?

A. No, except occasionally I have written some articles [3340] that have been published and I got paid for that.

Q. Huh? Well, what is your average income, say, over the past five years?

Mr. Gladstein: Your Honor, I object to this.

Presiding Inspector: I don't see how that is going to advance this case.

Mr. Del Guercio: As to whether or not he had a sufficient income to be lending him money.

Presiding Inspector: To lend \$5.00? If you really want to ask that, I will let you.

Mr. Gladstein: Your Honor, I think that that is going too far.

Presiding Inspector: I will let him ask the question.

Mr. Del Guercio: I will withdraw the question.

By Mr. Del Guercio:

Q. Were you ever on the Executive Committee of the American League against War and Facism?

A. Yes, I was.

(Testimony of Virgil MacMickle.)

Q. How long a period?

A. Oh, that I wouldn't remember.

Q. How many members were on the Board, on the Executive Board?

A. And I wouldn't remember that either.

Q. Approximately?

A. Oh, there might have been three or five. I wouldn't [3341] know. Frankly, I don't remember the details of that.

Q. Well, how did you become a member of the Executive Board of the League against War and Fascism?

A. Well, I was considered an ardent advocate of the cause against war and Fascism and I had no hesitancy when asked to join on that basis to—

Q. (Interposing) Were you required to be active as a member of the Executive Board?

A. Well, I don't know what you mean by "active". I probably discharged in my feeble way some responsibility pertaining to my executive position, whatever it was, and I don't remember now frankly what it was.

Q. You don't remember what your duties were on the Executive Board?

A. No, I don't.

Q. Do you know Esther Layten?

A. Yes, I knew Esther Layten.

Q. Did you know her as the wife of James A. Murphy?

A. Yes.

Q. Do you know James A. Murphy?

A. Yes, certainly I know James A. Murphy.

Q. Do you know James A. Murphy as a member of the Communist Party?

(Testimony of Virgil MacMickle.)

A. Yes, he makes no bones about that. He is a Section Organizer in Portland, and everybody knows it. He has been [3342] written up in the Oregonian and is quite a respectable character around there.

Q. Is that the reason that you admit that you know him as a member of the Communist Party?

A. Well, I—

Q. (Interposing) I will withdraw that question.

A. Yes. I don't quite get the question anyway.

Q. Have your associations with Esther Layton and James A. Murphy been social?

A. Yes. I have had social relations with them.

Q. Over how long a period of time?

A. Oh, I don't know. Pretty nearly as long as, I would say, back to 1937 or '38; somewhere along in there.

Q. Did you ever visit Esther Layton and James A. Murphy at their home?

A. Yes. I visited them at their home.

Q. Did you ever know them to live in the same apartment building as Mr. and Mrs. Lovelace?

A. No, I didn't know that.

Q. Did you ever visit them at that apartment?

A. The apartment I visited them at was on the east side of the Willamette River, and the apartment I visited the Lovelaces was on the west side. So if they ever lived together I didn't know anything about that. [3343]

(Testimony of Virgil MacMickle.)

Q. Esther Layten was also on their Executive Board?

A. Yes, sir; she was a very active member.

Q. She was a very active member?

A. Yes.

Q. And you knew her to be equally active in the Communist Party?

A. No.

Q. But you knew she was a member of the Communist Party?

A. No, I didn't. I knew her husband was a Communist Section Organizer, but as far as she was concerned, I don't know whether she belonged to the Communist Party or not; I wouldn't know.

Q. Do you have the records available of the treatment that you gave the deceased, Richard Lovelace?

A. No, I don't, for the simple reason that I made no charge for it.

Q. Wait a minute. I asked if you had the records available.

Presiding Inspector: He said "No."

By Mr. Del Guercio:

Q. Did you ever have any records of the treatments you gave Mr. Lovelace?

A. No.

Q. At any time?

A. No.

Presiding Inspector: He answered "No."

[3344]

By Mr. Del Guercio:

Q. Now, Mr. MacMickle, if we were to produce and show you the records of the Veterans Administration regarding the treatment and diagnosis

(Testimony of Virgil MacMickle.)

had by Mr. Lovelace by doctors of the Veterans Administration during the same period of time that you say you treated him, and if those records do not show that at any time he was considered as a mental case, would your testimony be any different?

Mr. Gladstein: I think that question is improper.

Presiding Inspector: It is a hypothetical question, but I think we are entitled to an answer if you propose to bring those records in.

Mr. Del Guercio: We do.

Mr. Gladstein: Then the question being asked must state the specific things that are found in that record and, mind you, this is covering a long period of time.

Presiding Inspector: Yes.

Mr. Gladstein: I don't exactly know what counsel has in mind. If he is going to ask a hypothetical question—

Presiding Inspector: Neither do I, but I will take the answer. This is cross examination.

Mr. Gladstein: He has to be fair with the witness.

Presiding Inspector: Absolutely, he must be.

The question is this: Assuming that the records do not show that he was treated as, or diagnosed as a mental [3345] patient, would that affect your testimony?

A. No. I would still stick with my contention that he was a mental case and I would, particularly

(Testimony of Virgil MacMickle.)

in view of a conversation which I had over the telephone with Dr. Ernst, in charge of the neuro-psychiatry ward of the Veterans Hospital in Portland, and after Dr. Ernest was informed of the filthy and obscene letters he had written. Then I asked Dr. Ernst if he couldn't get Mr. Lovelace there for treatment; otherwise he was in dire consequences. He said, "No. We have had him here before and there is not much we can do for him. It is just one of those cases. If he comes in he will have to come in voluntarily, and we can't make him stay if he wants to depart."

Mr. Del Guercio: I move that the answer be stricken.

Presiding Inspector: Strike it out.

Mr. Gladstein: I think it is relevant and responsive.

Presiding Inspector: No. I think not. Read the question.

Mr. Gladstein: It answered the question and explained the basis of his answer.

Presiding Inspector: No. Strike it out. I will leave it to you.

Mr. Gladstein: He gave his answer that he wouldn't change his mind, and he expressed that in the light of the special circumstances. [3346]

Presiding Inspector: Then perhaps you can ask why he wouldn't believe the records.

Mr. Gladstein: It is not a question of why he wouldn't believe the records. The records may not cover the same thing.

(Testimony of Virgil MacMickle.)

Presiding Inspector: I will strike it out. You may ask on that subject when the witness is yours.

Go ahead and ask the next question.

By Mr. Del Guercio:

Q. Have you ever examined the records of the Veterans Hospital?

A. No. I haven't any access to those.

Presiding Inspector: You have never examined them. Let us be precise here. Go ahead and ask the next question.

Mr. Del Guercio: Do you want to continue?

Presiding Inspector: I want to finish with this witness if I can.

Mr. Del Guercio: We want to get the records from the Veterans Hospital and confront this witness with them.

Mr. Gladstein: He has never seen them. He was asked a question, and if they want to produce the records I suppose they will have to have somebody to produce them.

Mr. Del Guercio: And it will take at least another hour.

Mr. Gladstein: I don't see what difference it makes, in view of the answer the witness has given to the question.

Presiding Inspector: I don't see that it would make much [3347] difference. He says it wouldn't change his mind.

Mr. Del Guercio: We also want to hold him over. We want to make a further investigation, a more complete investigation of this witness, for

(Testimony of Virgil MacMickle.)

reasons which we believe are not necessary to state at this time and probably improper. We have been limited in our investigation that we have made. We have only made an investigation since he has appeared here on the stand. Before you decide, I would like to ask him one more question, if your Honor please.

By Mr. Del Guercio:

Q. Do you know a Mr. Whitmer or Mr. Whitmore? A. Whitmore?

Q. You know—yes.

A. Oh, I might have run across somebody by that name in the last 25 or 30 years.

Q. Do you want a little time to think it over as to whether you do or not?

A. If you can help me to identify him—

Q. Did you ever have any trouble with him over a bad check? A. No.

Q. Or with anybody over checks? A. No.

Q. Huh? A. No.

Q. Were you ever accused of passing false checks? A. No, sir. [3348]

Q. Checks with insufficient funds?

A. Yes; I have had checks with insufficient funds but I have never been, you know, nothing has ever been made of it. Sure, I have overdrawn my account.

Q. You say you don't know a Mr. Whitmer or Whitmore? A. No.

Q. Whitmer or Whitmore?

A. I don't remember such a name.

(Testimony of Virgil MacMickle.)

Q. Or some such name? A. No.

Mr. Del Guercio: I again make the request that the witness be held over until Monday.

Presiding Inspector: No objection?

Mr. Gladstein: No.

Before we adjourn I would like to have a statement, if the Government is in a position to make one, on the question of Mr. Cannalonga.

Presiding Inspector: I haven't heard from Mr. Wixon since this morning.

Mr. Gladstein: What is the latest information?

Presiding Inspector: This morning he had not found him.

Mr. Gladstein: Who is looking for him?

Presiding Inspector: I haven't any idea. Someone under Mr. Wixon's direction, I assume. He hasn't informed me who it is. [3349]

Mr. Del Guercio: I might say, for counsel's information, that both the FBI and the Immigration Service and, if necessary, any other Governmental agency, will make every exhaustive effort to locate Mr. Cannalonga.

Presiding Inspector: I assume that is so. If you can help in any way, Mr. Gladstein, I trust you will do so.

Mr. Gladstein: You have my assurance.

Mr. Del Guercio: If they can give us any information on Mr. Cannalonga's whereabouts we will be glad to have it.

Presiding Inspector: In case you have any clue

(Testimony of Virgil MacMickle.)

that may lead to his location please let them know.

Mr. Gladstein: Yes.

Presiding Inspector: We will recess until Monday morning at ten o'clock.

(Whereupon, at 4:30 P. M., an adjournment was taken to Monday, May 12, 1941 at 10:00 A. M.) [3350]

Court Room 276,
Federal Building,
San Francisco, California.
May 12, 1941

Met, pursuant to adjournment, at 10:00 A. M.

[3351]

PROCEEDINGS

Presiding Inspector: Call your witness, Mr. Del Guercio.

Mr. Del Guercio: We are ready, your Honor.

Presiding Inspector: It isn't your witness.

Mr. Gladstein: Take the stand, please.

VIRGIL MacMICKLE

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Cross Examination (Resumed)

By Mr. Del Guercio:

Q. Now, Mr. MacMickle, you testified last Friday that you graduated from the American College of Drugless Physicians; is that correct?

(Testimony of Virgil MacMickle.)

A. Yes.

Q. In about 1913? — A. That is right.

Q. Isn't it a fact that such a college never existed?

A. It existed all right; I have a diploma from it.

Q. Isn't it a fact that that was called the American College of Physical Education?

A. They had an American College of Physical Education in the same building; yes, sir.

Q. Isn't it a fact that the American College of Physical Education occupied the whole building on 42nd Street and Grand Boulevard, Chicago, Illinois? [3352]

A. No, that is not a fact.

Q. Isn't it a fact that the American College of Drugless Physicians was not listed in any of the directories for the City of Chicago during those years that you claimed you attended?

A. I wouldn't know that.

Q. As a matter of fact, Mr. MacMickle, you obtained your diploma through a fake diploma mill, isn't that correct?

A. No, that is not correct.

Q. That is not correct? — A. No.

Q. And you said that after you graduated from that school you took up swimming, or became a swimming instructor?

Mr. Gladstein: I think all that has been gone into, and asked and answered a number of times.

Presiding Inspector: This is only to get started, I take it.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Isn't it a fact that you took a physical education course, if any? A. No, sir.

Mr. Gladstein: I think that question is ambiguous. Does the question call for—

Presiding Inspector: The Witness seemed to be able to answer. [3353]

Mr. Gladstein: I know, but I want the record to show—it may be that the witness took a physical education course at some time.

Presiding Inspector: I will let you follow it up on redirect.

Mr. Gladstein: I want the record to show my objection to the question being ambiguous.

Presiding Inspector: It is in the record, and we will let you follow it up when you have the witness. Go ahead. [3354]

By Mr. Del Guercio:

Q. Now, you testified that one of the doctors who signed your diploma was a Dr. Crane?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir. My recollection is that's correct.

Q. That is the same—was that Dr. Milo A. Crane?

A. I wouldn't remember his first name.

Q. You wouldn't remember? A. No.

Q. Does it appear on the diploma?

A. I presume it does.

Q. And isn't it the same Dr. Crane who was charged with unethical conduct and expelled from

(Testimony of Virgil MacMickle.)

membership in the medical profession because he advertised correspondence courses in drugless healing and granted special diplomas?

A. I wouldn't know about that.

Q. You wouldn't know about that?

A. No.

Mr. Gladstein: The question has been asked and answered.

Presiding Inspector: Yes, it has.

By Mr. Del Guercio:

Q. Do you know a Mr. Higbe? A. No.

Q. What? [3355] A. No.

Q. Now, you said you graduated from Stanhope High School? A. Yes, sir.

Q. Where is that High School?

A. In Stanhope, New Jersey.

Q. In Stanhope, New Jersey? A. Yes.

Q. Is it a public school?

A. It was a public school; yes, sir.

Q. Is that near Patterson, New Jersey?

A. It might be within thirty-five or forty miles.

Q. Well, as a matter of fact, you know that there is no such school, don't you, or there was no such school?

A. Then I would like to know who issued my diploma.

Q. So would I.

A. Well, I certainly have one.

Q. Where do you have it?

A. I have it in Portland.

Q. Is it available?

(Testimony of Virgil MacMickle.)

A. Yes, surely. Surely it is available.

Q. Now, do you know a James Martin?

A. Not that I recall.

Q. Not that you can recall. You testified, I believe, that you knew the deceased Mr. Lovelace—Richard Lovelace— [3356] for a period of how many years?

A. Well, I would say—I think I said from 1933 on.

Q. 1933 until the time of his death?

A. It might have been 1932. I wouldn't remember it exactly.

Q. Did you know him as a member of the Communist Party?

A. Yes, I knew him as a member of the Communist Party.

Q. You knew he was? A. Yes.

Q. Did he tell you? A. Yes, he told me.

Q. Did others tell you that he was a member of the Communist Party?

A. Yes.

Q. Who else?

A. There would be so many I wouldn't know.

Q. Well, name some of them.

Q. Well, let's see! Bob Wilmot.

Q. Bob Wilmot told you that. Did you believe Bob Wilmot when he told you that Richard Lovelace was a member of the Communist Party?

A. I took it for granted since Richard admitted it himself.

Q. You believed Wilmot, didn't you? [3357]

(Testimony of Virgil MacMickle.)

Mr. Gladstein: I think the question has been asked and answered.

Presiding Inspector: Yes, it has been answered.

By Mr. Del Guercio:

Q. Who else told you that? You said "many" people told you that. Who else told you that?

A. Well, he had the general reputation. It was known and published in the newspapers.

Q. You can't remember anyone else who told you that Richard Lovelace was—

A. (Interposing) I can't at this moment, no.

Q. And when did he drop out of the Communist Party, Mr. MacMickle.

A. Well, I wouldn't have definite information on that. All I know is that he told me that he had been expelled from the Party.

Q. When did he tell you that?

A. Oh, I suppose that would be 1939, probably.

Q. It was about the same period of time that you began to see signs of paranoia, is that correct?

A. I would say they were beginning to develop about that time.

Q. You began to observe these things here about Richard Lovelace shortly after he dropped out of the Communist Party, is that correct? [3358]

A. Yes. I think that is essentially correct?

Q. Well now, Mr. MacMickle, as a matter of fact, you were given an assignment by the Communist Party to discredit Mr. Lovelace after he dropped out of the Communist Party, isn't that correct?

(Testimony of Virgil MacMickle.)

A. No, that is not correct.

Q. Didn't you furnish Mr. Lovelace with liquor?

A. No, sir.

Q. Did you ever go out drinking with Mr. Lovelace?

A. Oh, I have had a drink or two with him at one time or another, certainly.

Q. Did you ever get drunk with him?

A. No, I didn't.

Q. Huh? A. No, sir.

Q. Who bought the liquor when you went out?

Mr. Gladstein: I think that is immaterial.

Mr. Del Guercio: It is very material.

Mr. Gladstein: Just a moment! I have a right to make my objection notwithstanding what counsel thinks is material. I object to the question as being immaterial.

Presiding Inspector: I will take it.

By Mr. Del Guercio:

Q. Did you buy Mr. Lovelace liquor?

A. No, I think Mr. Lovelace usually bought his own [3359] liquor.

Q. Did he buy yours when you were out drinking with him?

A. Well now, you asked me when I was out "drinking" with him as though that was a habitual thing. No.

Q. You never did. Now, he, Mr. Lovelace, during his lifetime was active and, as a matter of fact, a co-founder of the American League Against War and Fascism in Portland, Oregon, was he not?

(Testimony of Virgil MacMickle.)

A. You couldn't prove that by me because I don't know. [3360]

Q. You were on the Executive Board, were you not?

A. That was after the thing had been formed.

Q. That was after it had been formed?

A. Yes.

Q. Was Mr. Lovelace one of those who interested you in joining the American League Against War and Fascism?

A. No. The man who interested me, and solicited my membership, was Major Larry A. Milner?

Q. Major Larry A. Milner?

A. Laurence A. Milner; yes.

Q. Did you work with Mr. Lovelace on this League Against War and Fascism?

A. No. As a matter of fact, Mr. Lovelace had very little to do with it.

Q. Did you ever appear at meetings with Mr. Lovelace, meetings of this American League Against War and Fascism?

A. I don't recall ever having seen him at a meeting.

Q. Do you remember the American League Against War and Fascism holding a mass meeting in Park Block at Park and Madison Street, Portland, Oregon, on August 1, 1934.

A. I do.

Q. Do you recall that you were one of the speakers?

A. I was.

Q. At that time. Was Mr. Lovelace there?

(Testimony of Virgil MacMickle.)

A. Yes, Mr. Lovelace was there. [3361]

Q. He was there? A. Yes.

Q. Did he participate?

A. He participated as an uninvited speaker and proceeded to disgust everybody present by his vile language and his abusive conduct.

Q. Well, didn't you make a very radical speech at that time? A. No.

Mr. Gladstein: I think that calls for a definition of terms from counsel. It is quite obvious, from his conduct in this case, that any liberal or progressive idea is considered by Mr. Del Guercio as a most radical, revolutionary and dangerous thing. I think the witness is entitled to a definition of what is radical. If we go to the Greek definition of what is radical, that is a question of going to the root of something. I think, from a scientific point of view, the word "radical" carries no evil connotation. If he is going to use that word he should define it.

Presiding Inspector: I don't think it carries any evil connotation.

Mr. Gladstein: I think it ought to be defined.

Presiding Inspector: I will let him answer and you may canvass the question on redirect.

Mr. Gladstein: Somebody may look at this record and see [3362] the word "radical" and construe it in the way Mr. Del Guercio does.

Presiding Inspector: I said, on my ruling, I think there is no evil implication. Go ahead and answer the question.

A. No, I made no radical speech.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. What kind of a speech did you make—on what subject was it?

A. Well, in general it had to do with the World War, because it was the twentieth anniversary of the beginning of the World War. I forgot what section of it I was assigned to, but it wasn't anything other than a discussion of the World War.

Q. Who assigned you the subject?

A. Major Milner.

Q. You took directions from Major Milner?

A. I had a high respect for him as a military man.

Q. Was he a member of the American League Against War and Fascism?

A. Oh, yes, indeed. He was its Secretary at that time, I think.

Q. Do you remember attending a meeting of the American League against War and Fascism on October 13, 1935, at the hall of the Woodmen of the World hall, in Portland?

A. Well, I don't recall the exact episode; no.

[3363]

Q. Was Mr. Lovelace present at that time?

A. I wouldn't know, because I don't recall the date.

Q. Do you remember attending a meeting of the same League in the Swiss Hall in Portland, Oregon, on April 3, 1935?

A. I don't remember; no, sir.

(Testimony of Virgil MacMickle.)

Q. Do you remember being a speaker at that occasion? A. No.

Q. If I refresh your memory would you think you would change your testimony on that?

Mr. Gladstein: I object to that as argumentative.

Presiding Inspector. How can he tell? It is a question that is impossible to be answered.

By Mr. Del Guercio:

Q. And did you make a speech, outlining the danger of Fascism in America and urging the workers present to join the movement of the League to combat that capitalistic movement?

A. I don't know that I phrased any such statement as that. I don't recall the situation at all.

Q. And was Mr. Lovelace present at that meeting?

A. I don't have any recollection whatever about it.

Q. Do you know what the Simpson case is, Mr. MacMickle? A. I don't know.

Q. S-i-m-p-s-o-n? A. No.

Q. Did you ever talk about the Simpson case?

[3364]

A. No.

Q. At no time

A. I wouldn't even know what the case was to talk about.

Q. Do you remember appearing over radio KWJJ in Portland, Oregon, on April 8, 1937, and giving a three-minute talk on the Simpson case?

(Testimony of Virgil MacMickle.)

A. No, I don't remember giving that talk. I know I talked a lot over KWJJ.

Q. Would you say you didn't discuss the Simpson case?

A. No, I wouldn't, because I have no recollection whatever regarding it.

Q. Do you remember that Simpson was a seaman who was arrested in Germany about that time?

A. No, I wouldn't recall that.

Q. You wouldn't recall that? A. No.

Q. Now, in your testimony Friday, Mr. MacMickle, I asked you about a Mrs. Plank. You testified first that you didn't remember the name, and didn't know the name, and then you vaguely remembered.

Mr. Gladstein: I object to that.

Presiding Inspector. You have sufficiently refreshed his recollection. Go ahead and ask the question.

By Mr. Del Guercio:

Q. I asked you if you had ever seen the affidavit that she [3365] had made. Do you remember that?

A. Yes.

Q. I have the affidavit, the original affidavit, from Mrs. Edith J. Plank—

Mr. Gladstein: I object to the statement and move that it be stricken from the record.

Presiding Inspector: Strike it out. You have a paper writing.

Mr. Del Guercio: I will show it to the witness.

Presiding Inspector: Go ahead.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: May I see it?

(The document referred to was passed to Mr. Gladstein.)

Presiding Inspector: We are not generally so particular about characterizing it, but that is the rule.

Mr. Del Guercio: Since counsel asked to see it, I request that it be marked for identification.

Mr. Gladstein: Not necessarily.

Presiding Inspector: We will attend to that after it is read. [3366]

Presiding Inspector: Would you like to show it to the witness?

Mr. Del Guercio: Yes, sir.

Presiding Inspector: Then you may have it marked for identification.

(The document referred to was marked Government's Exhibit No. 262 for identification.)

By Mr. Del Guercio:

Q. I will show you what purports to be an affidavit of Edith J. Plank, sworn and subscribed to on the 25th day of April, 1930, before a Notary Public, and ask you to look it over.

Mr. Gladstein: Is that a question, asking him to look it over, or are you asking him a question?

Presiding Inspector: No, that is preliminary.

Mr. Gladstein: Preliminary to what?

Presiding Inspector: Well, he wants him to look it over first and then he is going to ask him a question, I assume.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: All right. I don't know.

Mr. Del Guercio: I didn't want to take the witness by surprise here, if your Honor please. I wanted to show him the document first before I asked him the question.

Presiding Inspector: You needn't argue. It is perfectly [3367] proper. Let the witness look it over before you ask him any questions.

A. (Reading Government's Exhibit No. 262 for identification.)

Presiding Inspector: Now, what is the question, Mr. Del Guercio?

By Mr. Del Guercio:

Q. Now, does that refresh your memory further regarding the case of—

A. (Interposing) It doesn't.

Q. Wait until I finish my question. You don't know what it is going to be. Does that refresh your memory further concerning the case of Mrs. Plank, whom you testified you treated?

A. No, it does not.

Q. It does not?

A. It doesn't give me any further information.

Q. Now, is it true as Mrs. Plank says in this affidavit that she was two months—

Mr. Gladstein: (Interposing) Just a moment! I want to object to that as highly improper.

Presiding Inspector: Don't answer the question.

Mr. Del Guercio: I haven't finished the question.

Mr. Gladstein: I know. I know what counsel is going to do. In the first place, this assumes that it

(Testimony of Virgil MacMickle.)

is an affidavit made by a Mrs. Plank. This purports to be an ex parte state- [3368] ment. I think all that counsel is entitled to is to ask the witness whether this has ever been seen by him, whether he has ever been confronted with it in any litigation, and on those occasions what took place or what was said. But counsel is not entitled to present a document to the witness, which purports to be an ex parte affidavit and may or may not be and may or may not contain a statement of facts at all, and then proceed to read this for an obvious publicity stunt.

Now, I object to it, your Honor, and I think you should rule definitely and strongly on this because we have had some of these things before.

Presiding Inspector: Yes, on both sides.

Mr. Del Guercio: If your Honor please, this is not a publicity stunt. This man here has appeared here as a character—I was going to say “character witness”, but I can’t use the term that I want to use.

Mr. Gladstein: I will object to that statement and I think that the Court should admonish counsel in speaking that way while the witness is on the stand.

Presiding Inspector: I think that you must obey the usual rules of courtesy in these cases.

Mr. Del Guercio: This witness here has testified that he has treated a Mrs. Plank.

Presiding Inspector: What is the use of asking him about that document [3369]

Mr. Del Guercio: Because we want to show what his reputation is, if your Honor please.

(Testimony of Virgil MacMickle.)

Presiding Inspector: Well, that is another question whether that is competent.

Mr. Del Guercio: Would we be permitted to bring character witnesses in here to testify as to the character of this witness?

Presiding Inspector: I wouldn't pass on that now. You have got a document there and you said it purported to be an affidavit. I don't know whether it is genuine, or no one here in the Court room so far as the record shows knows anything about it. You have asked him whether it refreshes his recollection.

Mr. Del Guercio: (Interposing) We could—

Presiding Inspector: And he says that it doesn't refresh his recollection. Now, what is more to be added? You want to get that into the record, is that it?

Mr. Del Guercio: Yes, we do.

Presiding Inspector: I think you will have to go farther than that to get it into the record. You can ask him if you have searched his recollection, not from that document particularly, but from anything that you think as to what he has already said or contradicted.

By Mr. Del Guercio: [3370]

Q. Is it true, Mr. MacMickle, that at the time Mrs. Plank appeared at your office she was two months' pregnant? A. No.

Q. Is it true that at the time Mrs. Plank appeared at your office on or about March 20, 1929

(Testimony of Virgil MacMickle.)

that she told you about her condition and that she wanted an abortion performed? A. No.

Q. Is it true, Mr. MacMickle, that you demanded from her \$25.00? A. No.

Q. And is it true, Mr. MacMickle, that she did then and there pay you \$25.00?

A. The amount she paid me, I told you the other day, I didn't recall. But I would certainly—that's the limit of my knowledge on it.

Q. And is it true, Mr. MacMickle, that at that time you consented to treat her, perform an abortion and that in so doing you inserted an instrument into her uterus? A. No.

Q. Do you know a Dr. Holden?

A. I know him by reputation.

Q. By reputation only? A. Well,—

Mr. Gladstein: (Interposing) I will object to that. He has said he has heard of him. [3371]

Mr. Del Guercio: I will withdraw the question.

Presiding Inspector: By "reputation" he means that he knows him by the general speech of people, not that they have discussed whether he is righteous or upright or the contrary.

Mr. Gladstein: And it wouldn't make any difference.

Presiding Inspector: No, not now.

By Mr. Del Guercio:

Q. Is it true, Mr. MacMickle, that you have the reputation of being an abortionist?

A. No.

Q. Now, you testified, I believe, that a Dr. Eris-

(Testimony of Virgil MacMickle.)

bee talked to you over the telephone concerning the case of Mrs.—

A. (Interposing) That's right.

Q. (Continuing)—Plank after she consulted or went to see a doctor?

A. (Nodding affirmatively).

Q. That was about April 16, 1929 or thereabouts.

A. Oh, I wouldn't remember the date.

Q. And isn't it true, Mr. MacMickle, that Dr. Frisbee told you that after a consultation with Drs. Holden and Ripley that they found Mrs. Plank's illness to be due to an attempted abortion by an electrical doctor who said he saw her four times?

A. I never had any such conversation with Dr. Frisbee. [3372]

Q. You never did? A. No.

Q. Did you ever see the personal history records of Mrs. E. J. Plank?

Mr. Gladstein: At where?

By Mr. Del Guercio:

Q. At the hospital in which she was confined.

A. No.

Q. Huh? A. Never did.

Q. She was confined at the Portland Sanitarium wasn't she?

A. That's my recollection of what they said.

Mr. Del Guercio: You know that.

If the Court please, may we ask that this—will we be permitted to substitute a photostat for this original?

(Testimony of Virgil MacMickle.)

Presiding Inspector: Well, it is only marked for identification.

Mr. Del Guercio: For identification?

Presiding Inspector: Yes. Are you going to go any further with it?

Mr. Del Guercio: Oh, we don't know at this time.

Presiding Inspector: You don't know. If you go any further with it you may substitute a photo-static copy.

Mr. Gladstein: I think it should be in the reporter's hands. I may have some questions to ask.

[3373]

Presiding Inspector: What is that?

Mr. Gladstein: Meantime it should be in the reporter's hands.

Mr. Del Guercio: I guess it could be in my hands while I am questioning him about it.

Mr. Gladstein: Oh, yes. Of course.

Presiding Inspector: Let us see if we can't make some progress.

By Mr. Del Guercio:

Q. Mr. MacMickle, did you give Mr. Richard Lovelace therapy treatments in the summer of 1939?

A. I think in the summer of 1939 I gave him some electrical—

Q. (Interposing): That was right after he came out of the Veteran's Hospital, wasn't it?

A. I think possibly after one of his trips to the Veteran's Hospital. I wouldn't be sure.

(Testimony of Virgil MacMickle.)

Q. And that is the only time that he was ever a patient of yours? A. No, that wasn't.

Q. Huh? A. No, no.

Q. That isn't so? You say that is not so?

A. No, that is not so. I treated him for various ailments at various times. [3374]

Q. Now, you testified concerning an alleged extortion letter. When was that letter written?

A. I didn't testify—

Q. Huh?

A. I didn't testify concerning any alleged distortion letter.

Q. What did you testify about?

A. I take that back. I did mention "extortion" in connection with his letter.

Q. What do you mean by that statement?

Presiding Inspector: He remembers now that he called it an extortion letter. What about it?

By Mr. Del Guercio:

Q. What was it about?

A. What was it about? It was that he was trying to get—

Q. (Interposing): Who was saying that?

A. That Richard Lovelace was trying to get this woman, who had formerly been his sweetheart, to give him moneys under threat of exposing their previous relation to her husband, and under threat of exposing other affairs that she had had.

Q. What is that woman's name?

Mr. Gladstein: Well, your Honor, I am not opposed to having a proper cross examination, and our

(Testimony of Virgil MacMickle.)

position has been, as I think you have noticed, that we don't do one-tenth of the [3375] objecting that counsel for the Government do——

Mr. Del Guercio: He can object all he wants to.

Mr. Gladstein: I haven't finished.

Presiding Inspector: Let's hear him.

Mr. Gladstein: The question here is this: If it is a question of simply checking on the information, I have no objection to that, but I think, out of courtesy to the people who are involved, that counsel should have some delicacy about the matter.

Mr. Del Guercio: We say there are no people involved. We say that is a figment of this witness' imagination.

Mr. Gladstein: I move that that be stricken out as an improper statement on the part of counsel, your Honor.

Mr. Del Guercio: It is not as improper as counsel's statement was.

Presiding Inspector: I think it was merely to explain why he wanted to ask the name.

Mr. Gladstein: I was making an objection, which lawyers have a right to make, and Mr. Del Guercio was making the kind of bullying speeches he is accustomed to making. I move it be stricken from the record.

Presiding Inspector: I don't care to have you characterize it, but I think you can make the motion. I think all the discussion will go out of the

(Testimony of Virgil MacMickle.)

record anyway, I suppose, under the rule, unless you all agree on some different plan. [3376]

I think I will strike it out.

Now you ask, through me, that counsel be requested not to put the name of this particular person in the record.

Wouldn't it be well to accede to that and ask this witness to write the name, give it to you, and show it to Mr. Gladstein, and you make any investigation then that you wish?

Mr. Del Guercio: That would be agreeable.

Presiding Inspector: All right.

Mr. Del Guercio: The name and address.

Presiding Inspector: Yes.

Mr. Del Guercio: If he knows.

The Witness: I would be unable to give the address. I can't give the lady's present married name.

Presiding Inspector: You can give some identifying name?

The Witness: Yes. I would be willing to do that. That remains inviolate so far as she is concerned, does it?

Presiding Inspector: Of course, I can't compel these—I can instruct you to answer it, but we don't want to blacken anyone's reputation here. Just write the name down.

Mr. Gladstein: If you don't know her first name, all right.

Mr. Myron: The question is put.

Mr. Gladstein: I have a suggestion to make to

(Testimony of Virgil MacMickle.)

the Court. I don't have to be interrupted by Mr. Myron. [3377]

Presiding Inspector: Never mind scolding Mr. Myron.

Mr. Gladstein: I was going to make the suggestion that if the witness did not know the lady's first name that he simply give the husband's, then husband's name, if she has a different one now—I don't know—and any identifying information that he has. If he doesn't remember her address, what she was doing, or anything of that sort—

Mr. Del Guercio (Interposing): There is no use of this after counsel has given the suggestions.

Presiding Inspector: I think so. Write down the woman's name at the time that this occurred.

(Whereupon the witness wrote a name on a piece of paper and handed it to the Presiding Inspector.)

Presiding Inspector: Do you now whether her husband is dead, that first husband?

The Witness: There was no husband at the time this love affair was going on.

Presiding Inspector: No, no—but at the time the letters were shown to you.

The Witness: Well, th. I wouldn't know about that because I—

Presiding Inspector: Do you know his name?

The Witness: No, I don't remember his name at all. I am sorry, but I don't.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio: [3378]

Q. You don't remember much of anything, do you?

Mr. Gladstein: Don't answer an insulting thing like that. I object to that as not being a question.

Presiding Inspector: Don't characterize it. You can move to strike it out.

Mr. Gladstein: I do so move.

Presiding Inspector: We will exclude it.

Now, this name that you have written down here is the woman's last name?

The Witness: Yes.

Presiding Inspector: At the time that you knew her?

The Witness: That is right.

Presiding Inspector: I don't know whether—you did know her, didn't you?

The Witness: I knew her casually; yes.

Presiding Inspector: Do you know what her business was, if she had any?

The Witness: She was a stenographer.

Presiding Inspector: Stenographer. Can you identify her in any other way than this?

The Witness: She was a blonde.

Presiding Inspector: A blonde stenographer?

The Witness: A blonde stenographer.

Presiding Inspector: I am afraid that is not very close identification. [3379]

Show Mr. Gladstein this name.

(The piece of paper with a name written thereon was passed to Mr. Del Guercio and Mr. Gladstein.)

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Didn't you testify that her husband had brought the lady to you?

A. No. The husband brought the letter to me.

Q. The husband brought the letter—was it before or after she was married?

A. I think your question isn't clear in my mind. I didn't understand your question.

Presiding Inspector: I think there was some confusion there. At the time that these matters concerning which Mr. Lovelace wrote, the woman was not married, is that right, but at the time the letters were written, delivered, she was married?

The Witness: She was married; yes.

By Mr. Del Guercio:

Q. Now, let us get this straight. Didn't you testify that both the husband and the lady in question were very good friends of yours?

A. No, indeed, I did not.

Q. You did not?

We want to look back to the previous testimony, if your Honor please. [3380]

Presiding Inspector: Yes; all right. Take your time.

By Mr. Del Guercio:

Q. Who brought the letter to you, Mr. MacMickle?

A. The husband brought the letter to me; brought three of them.

Q. Well, now, and you don't remember his name?

(Testimony of Virgil MacMickle.)

A. No, I don't. It was an odd name. I had no reason for continuing the acquaintance and there is just nothing to it for me to remember.

Q. What did he say to you?

A. Well, he came into the office and said, "If you are a friend of Dick Lovelace you had better take care of him. If you don't I am going to kill him."

Q. How did he know that you were a friend of Dick Lovelace?

Mr. Gladstein: I object to that as calling for conjecture, speculation, the opinion and conclusion of the witness, and being immaterial.

Presiding Inspector: Well, it is hard to rule on the materiality of it.

Mr. Del Guercio: It goes to the veracity of the witness.

Mr. Gladstein: This witness is being asked how this other man knew whether a friendship existed.

Presiding Inspector: Of course, if he doesn't know he [3381] can say so; if he knows why he can tell. Do you know?

A. Well, I think I know how he might have known, because when he got these letters and confronted his wife with them, as the story developed, she told him that I had been a friend of Dick Lovelace.

By Mr. Del Guercio:

Q. Then you knew the lady in question before?

A. I had met her before; yes. I haven't said I didn't?

(Testimony of Virgil MacMickle.)

Q. What?

A. I haven't said I didn't know her before.

Q. What did you do with the letters?

A. I gave them back to the man.

Q. Did you tell the Police about it?

A. I told, first I called the Veterans Hospital. I dissuaded this fellow—

Q. (Interposing): The question is, did you tell the Police about it? A. No. I told the—

Presiding Inspector: That is all.

By Mr. Del Guercio:

Q. Answer "Yes" or "No". A. No.

Q. If you want to qualify later on you may.

A. May I qualify it? [3382]

Presiding Inspector: Yes; certainly.

A. (Continuing): Well, the episode, as it actually occurred, was when he made the threat of violence I said, "This man is a sick man and doesn't need punishment, but needs treatment. Let us call the Veterans Hospital."

He said, "You can."

So I called the Veterans Hospital.

By Mr. Del Guercio:

Q. Who did you talk to?

A. Dr. Ernst, in charge of the Neuro-psychiatry department.

Q. You are sure you talked to Dr. Ernst?

A. Absolutely. I first called for Dr. Carter, called for him twice, because I heard Lovelace mention him.

(Testimony of Virgil MacMickle.)

Q. If Dr. Ernst would say he never talked to you would your testimony be the same?

Mr. Gladstein: Don't answer that. I object to that as being argumentative.

Presiding Inspector: Sustained. We can't go into hypothetical matters that way.

Mr. Del Guercio: We expect to have Dr. Ernst down here.

Presiding Inspector: Very well.

Mr. Gladstein: When you produce him——

Presiding Inspector: We can't tell what Dr. Ernst will say. [3383]

A. (Continuing): Then I called Mr. Stack, the Court having proper jurisdiction—I forget the name of the Court.

By Mr. Del Guercio:

Q. Who is Mr. Stack?

A. He is connected with this Court as one of the psychologists, I believe. Anyhow, it was Dr. Ernst's recommendation that I call him. Otherwise I wouldn't have known him.

I called him and told him I had been told to call him. And then when the man called me back to see whether I had been able to make arrangements with the Veterans Hospital I told him I hadn't, but they had sent him to Mr. Stack. So he went up and took the letters to Mr. Stack's office and saw Mr. Stack, and Mr. Stack called me back and told me about it himself.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. What is Mr. Stack's first name?

A. I don't know.

Q. When did this alleged conversation take place between you and Mr. Stack?

A. Oh, I would say it took place probably, I would say, about March or April of last year; roughly.

Q. 1939? A. No.

Q. 1940?

A. About March or April, 1940. [3384]

Q. And was this conversation over the telephone, or how did it take place?

A. With Mr. Stack, it was over the telephone; yes.

Q. Over the phone? A. Yes.

Q. You called him up?

A. I called him up, and then he called me back.

Q. Where did you call from?

A. From my office.

Q. Was there anyone present at your office at any time?

A. I don't know that there was.

Q. And what phone number did you call, do you remember? A. What?

Q. What phone number did you call?

A. Oh, I don't know. I called the court house number. I wouldn't remember the number.

Q. The court house number?

A. The court house number.

Q. That number?

(Testimony of Virgil MacMickle.)

A. Yes; and then asked for that department.

Q. You testified that the deceased, Mr. Lovelace, talked to you about pixies, is that correct?

A. That is right.

Q. Who were present at the time?

A. Nobody. [3385]

Q. Nobody—just you and Mr. Lovelace?

A. Yes.

Q. And when did these occur?

A. Oh, I would say it was about the time that he was so worried about these letters. You know—

Q. (Interposing): Was it before or after these letters?

A. It was probably before I saw the letters, but I have a suspicion he might have been worrying about them at the time.

Mr. Del Guercio: Well, now, I move to strike that out—he had a suspicion that he might have been worrying about the letters that the witness never saw, if your Honor please.

Mr. Gladstein: What is that?

May I have counsel's last statement read?

Presiding Inspector: I will strike it out so it won't make any difference.

Mr. Gladstein: All right.

Presiding Inspector: You can ask him again.

Mr. Del Guercio: You struck out my remark, but not the witness' answer?

Presiding Inspector: Just the witness' answer. Let me see—I am ruling on your question. It

(Testimony of Virgil MacMickle.)

hasn't been answered. I will exclude that question in the form that it is in.

Mr. Del Guercio: May I have the witness' last answer, please? [3386]

(The answer referred to was read by the reporter as above recorded.)

Presiding Inspector: You move to strike it out.

Mr. Del Guercio: Not at all.

Presiding Inspector: I thought you did.

You moved to strike it out?

Mr. Gladstein: I move to strike out the remarks of counsel, which was not an objection, or a motion of any kind, but simply a gratuitous comment.

Mr. Del Guercio: I was addressing myself to the witness.

Presiding Inspector: Let me hear Mr. Del Guercio's question, or statement.

(The statement referred to was read by the reporter as above recorded.)

Presiding Inspector: I thought there was a motion to strike it out, and I will grant your motion.

Mr. Del Guercio: I withdraw my motion.

Presiding Inspector: It is too late now. You have moved that it be stricken out. You will have to go over it again. You asked to strike it out and I granted the motion. It is stricken out. You can find out the chronology here if you wish to; if you don't wish to I may ask the question myself.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: Very well.

Presiding Inspector: Now, we want to find out the order in which these things happened. Now, will you just tell us in your own way?

The Witness: Well, yes. I can do that, your Honor. He talked about talking to the "pixies" before these letters were shown to me.

Presiding Inspector: You didn't know anything about the letters?

The Witness: No, I didn't then. He simply went on talking and asked me if I had ever talked to the "pixies."

Presiding Inspector: He said he had?

The Witness: He told me he had.

Presiding Inspector: And you told him you hadn't?

The Witness: That's right.

Presiding Inspector: And how long after that was it that these letters were shown?

The Witness: I would say roughly two weeks or some such matter.

Presiding Inspector: I see. And then after that you first spoke to Mr. Lovelace about the letters?

The Witness: Well, no. It was shortly—the day—here's the sequence of events. The morning before I saw these letters he came in and told me about somebody wanting to beat him up. [3388]

Presiding Inspector: I see.

The Witness: And how he had talked them out of it.

(Testimony of Virgil MacMickle.)

Presiding Inspector: But he didn't say anything particular then?

The Witness: No, he didn't then.

Presiding Inspector: And that was about two weeks after you had the "pixies" talk?

The Witness: Yes, that's right. And then later on in the day, this gentleman, the husband, came in and showed me the letters and then the next morning Lovelace came to my office and said that this—

Presiding Inspector: (Interposing) Now, I think we have got the chronology.

The Witness: Yes, that's the way absolutely that it went.

Presiding Inspector: That's all.

By Mr. Del Guercio:

Q. And I believe you testified that you continued to visit Mr. Lovelace—Mr. and Mrs. Lovelace at their home until the time of his death?

Mr. Gladstein: Just a moment! I will object to that as not being a question, and it has already been asked and answered in one form or another a half a dozen times.

Presiding Inspector: I think it has been answered, but I will allow it again.

Did you continue to visit Mr. and Mrs. Lovelace up to the time of his death at his house? [3389]

The Witness: No. My last visit there would be in the summer of 1940.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. In the summer of what?

A. In the summer of 1940. Pardon me. 1939. I didn't have any in 1940.

Q. But you continued to remain his friend until the time of his death?

Presiding Inspector: He has said that.

A. Yes.

By Mr. Del Guercio:

Q. Have you ever appeared to testify against the character of a dead man before?

A. No, sir.

Q. Huh? A. Not to my recollection.

Q. Is this the first time?

A. (Nodding affirmatively.)

Q. What?

A. Yes, this is the first time I can ever recall of having been—— (Pause).

Q. Where were you born, Mr. MacMickle?

A. I was born in Stanhope, New Jersey.

Q. Do you have a birth certificate?

A. No, it is in the family bible.

Q. What is your father's name? [3390]

A. Frank.

Q. Frank what? A. MacMickle.

Q. And your mother's maiden name?

A. Laura Schoonover.

Q. Will you spell that?

A. L-a-u-r-a S-c-h-o-o-n-o-v-e-r.

Mr. Del Guercio: If the Court please, may I approach the bench?

(Testimony of Virgil MacMickle.)

Presiding Inspector: Surely. Surely.

Mr. Del Guercio: If counsel doesn't mind.

Mr. Gladstein: Do you want me up there?

Mr. Del Guercio: Before I ask the question I would like to— (Pause).

Presiding Inspector: Do you want Mr. Gladstein up here?

Mr. Del Guercio: No.

Presiding Inspector: He wants the advice of the Inspector.

(Here followed informal discussion at the bench.)

By Mr. Del Guercio:

Q. Mr. MacMickle, have you ever been adjudged a bankrupt?

Mr. Gladstein: I object to that as being immaterial, your Honor.

Mr. Del Guercio: It goes to the truth and veracity.

Presiding Inspector: I am not sure whether it is com- [3391] petent or not.

Mr. Gladstein: I don't see how it would be.

Presiding Inspector: I said to Mr. Del Guercio that I wasn't sure and I suggested that he ask the question.

Mr. Gladstein: I am going to put the objection anyway. I don't know whether the witness has or has not, but I don't see any materiality and I object to it upon the grounds that it is immaterial and improper cross examination.

Presiding Inspector: I have heard it asked and

(Testimony of Virgil MacMickle.)

answered but never an objection to it. At least I have read that. It doesn't seem to be very material.

Mr. Del Guercio: If the Court please, we have permitted the witnesses to be asked whether they have ever been on relief and the answers have been permitted.

Presiding Inspector: Yes. But there was some further matter relating to that.

Mr. Gladstein: There was a purpose in that.

Presiding Inspector: — I don't think —

Mr. Del Guercio: (Interposing) There may be a distinct purpose in this, your Honor.

Presiding Inspector: I don't think it would be harmful. Well, I won't say whether it will be harmful or not, but I think I will allow it.

Have you been adjudicated a bankrupt?

The Witness: Yes, sir. [3392]

Presiding Inspector: That's all.

Go on to another subject.

By Mr. Del Guercio:

Q. Did you ever have a bank account in the Canadian Bank of Commerce? A. Yes.

Q. And did you ever issue checks on that bank account without having sufficient funds?

A. Yes.

Mr. Gladstein: I will object to that as immaterial and improper cross examination. I don't see how it has any materiality to the proceeding at all. I doubt whether there is a human being who has ever had a bank account who hasn't at some time overdrawn his account, and I don't see how in any

(Testimony of Virgil MacMickle.)

way this could involve the issues. And, moreover, if I remember correctly, it was asked and answered last Friday. I am pretty sure that subject was asked and the witness testified about it.

Presiding Inspector: I think there was something on it.

Mr. Del Guercio: Something was asked about Mr. Whitmore and the witness replied that he didn't know him.

Presiding Inspector: I will sustain the objection, but I will allow you to ask this question: Did you ever intentionally overdraw your account?

Mr. Del Guercio: Well, I—— (Pause). [3393]

Presiding Inspector: Lots of people overdraw their accounts.

Mr. Del Guercio: He could invoke the privilege, of course, and refuse to answer upon the ground that it might incriminate him.

Presiding Inspector: No, because not unless you ask him whether he intentionally did that and then he can invoke his privilege. If you want to ask him you may ask him.

Mr. Del Guercio: I will ask him that question and I will also request the Court to advise him that the witness may refuse to answer.

Presiding Inspector: Yes. You need not answer any question the answer to which would tend to incriminate you. The question is, Did you ever intentionally draw bad checks?

The Witness: No, no.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Do you know what your standing is with the Association of Credit Men in Portland?

Mr. Gladstein: I will object to that as improper.

Presiding Inspector: Sustained.

Mr. Del Guercio: Well, if your Honor please, doesn't that also go to the truth and veracity of this witness?

Presiding Inspector: No, no. I think no. I don't think so. There is nothing wrong for an impecunious person that I know of to ask for credit if he is able enough to get it. [3394]

Mr. Del Guercio: Well, if the Court please, the Court will recall that this witness testified that he had loaned money from times to times to the deceased Richard Lovelace. I want to show that he never was in position to loan money to Mr. Lovelace or anyone else.

Presiding Inspector: No, I wouldn't take that. Those are insignificant sums.

By Mr. Del Guercio:

Q. Have you ever been made a defendant in any action, civil or criminal?

A. No. I don't recall ever having been made a defendant in any such— (Pause).

Q. Do you want a little time to think it over?

A. No. I think my memory is fairly clear. I don't believe I was ever made a defendant.

Q. Weren't you sued by the United Adjusters for a sum of money?

A. That's right. I was. I had forgotten it.

(Testimony of Virgil MacMickle.)

Q. Then you were made a defendant, weren't you?

A. Uh-huh (Affirmative). It was settled out of Court.

Q. It was settled out of Court? A. Yes.

Q. Now you recall that? A. Yes, I do.

Mr. Gladstein: He has already testified to that. I will [3395] object to this question.

Presiding Inspector: Yes, he said so.

Mr. Del Guercio: May we have a short recess, your Honor?

Presiding Inspector: Yes, certainly.

(Whereupon, a short recess was taken.)

Presiding Inspector: On further consideration I will strike out the answer that the witness made, that he had been adjudicated a bankrupt, as not bearing on his credibility. That is the ground, I mean. It does not bear on his credibility. Therefore, I strike it out and disallow the question.

By Mr. Del Guercio:

Q. Mr. MacMickle, where do you keep your diploma from the American College of Drugless—

Mr. Gladstein: (Interposing) I object to that as immaterial.

Presiding Inspector: Well, if he has it in his home. He said he has it, didn't he?

Mr. Del Guercio: Yes. I want to know where it is.

Presiding Inspector: Well, I don't think that it is material.

(Testimony of Virgil MacMickle.)

You can produce that, can't you?

The Witness: Yes, I could produce it.

By Mr. Del Guercio:

Q. Well, is it in your office? [3396]

Presiding Inspector: Well, he merely asks whether—is it here?

The Witness: No, it is not down here.

Presiding Inspector: Is it framed in your office?

The Witness: No, I have it out home.

By Mr. Del Guercio:

Q. Would you have any objection to sending it down to the Court here?

A. Yes. I would be glad to send it down.

Q. And will you do that?

A. (Nodding affirmatively.)

Q. Mr. MacMickle, has your office at any time been used as a meeting place for Communists?

A. No.

Q. Have known Communists ever gathered at your office at any time?

A. Well, unless there would be Communists that came in there that knew each other, patients.

Q. Was Mr. Rapport ever a patient of yours?

A. Yes, he was.

Q. He appeared at your office? A. Yes.

Q. You knew that Rapport was a Communist, did you not? A. Yes.

Q. Did you ever discuss Communism with him?

[3397]

A. No, no. He had a bad throat and hardly able to talk, much less to discuss anything.

(Testimony of Virgil MacMickle.)

Q. Did you know him as an Alien who had been ordered deported because of his membership in the Communist Party? A. No, I didn't.

Q. What other Communists appeared at your office?

A. Well, those that I would know would be Lovelace, Wilmot and Jim Murphy.

Q. Anyone else?

A. Not to my certain knowledge, no.

Q. How did you happen to be down here to testify, Mr. MacMickle? Who asked you to come down here to testify?

A. Well, the,—— I was asked in Portland if I, having taken care of Lovelace and Wilmot, if I would be willing to come and testify.

Q. I will ask you the question again. Who asked you? A. An attorney in Portland.

Q. What is his name?

A. Irving Goodman.

Q. Irving Goodman?

A. Uh-huh (Affirmative).

Q. When did Irving Goodman talk to you about coming down to testify? A. Thursday.

Q. Thursday of last week? [3398]

A. Uh-huh (Affirmative).

Q. What did he say?

A. Well, he merely said, inasmuch as I was known to have been the physician——

Q. (Interposing) Well, did he call you up?

A. Yes. He called me up on the phone.

(Testimony of Virgil MacMickle.)

Q. And what did he say to you on the phone when he called you up?

A. Asked me to come to his office.

Q. Is that all he said?

A. Yes. So I went to his office.

Q. He didn't say anything else but ask you to go to his office?

A. That's it.

Q. Did he tell you why he wanted you to go to his office?

A. Well, he wanted to talk to me, he said.

Q. Did he tell you what he wanted to talk to you about?

A. No.

Q. And when did you go to his office?

A. I went to his office Thursday evening.

Q. In the same day?

A. Uh-huh (Affirmative).

Q. Thursday evening?

A. Uh-huh (Affirmative.) [3399]

Q. And when you arrived there who was present?

A. The only person I would remember who was present was a mutual friend by the name of Rodman, Burton Rodman.

Q. Who?

A. Rodman.

Q. Rodman?

A. Burton Rodman.

Q. Did you know Rodman before? You said he was a mutual friend, is that correct?

A. Yes. I have known Rodman for many years.

Q. And who started the conversation?

A. Who started—

Q. (Interposing) Was there any conversation?

(Testimony of Virgil MacMickle.)

A. In the office?

Q. After you arrived, yes, in Mr. Goodman's office.

A. Yes, there was conversation.

Q. Who started it?

A. That I don't recall just who started it.

Q. Well, what was said and by whom?

A. Well, I was asked to come down here and testify and told that I would be subpoenaed.

Q. Were you told what you would be required to testify?

A. No, no.

Q. Was the name of Richard Laurence mentioned—or [3400] Richard Lovelace mentioned?

A. I think it was mentioned and, as I say, inasmuch as I had been his physician and also Wilmot's.

Q. Well, what did they say about Richard Lovelace? By "they" I mean Rodman and Goodman.

A. Well, just simply wanted me to tell the truth about my relations with him.

Q. Did they ask you what your relations with Mr. Lovelace had been?

A. No. They didn't make any searching inquiry into what they were.

Q. What inquiry did they make?

A. Well, they said "Doc, you did treat Richard Lovelace?"

Q. And your answer to that was what?

A. I said, "Yes, surely I had".

Q. And did they ask you what you had treated him for?

A. No.

(Testimony of Virgil MacMickle.)

Q. And did you tell them what you had treated him for? A. No.

Q. What? A. No.

Q. What else did they ask you?

A. I don't recall that they asked me anything else.

Q. Now, your best recollection is that that's all that they asked you, what you have just testified to? [3401]

A. Yes. That is about all I can remember, I think.

Q. And they didn't ask you whether you knew Mr. Richard Lovelace's reputation for truth and veracity?

A. I wouldn't be sure whether that came up or not. That has come up so often I wouldn't be able to pin it down to any one particular conversation with anybody.

Q. How long did you talk to Mr. Rodman and Mr. Goodman that evening?

A. Oh, I should say, with the interruptions he had around his office, that I was probably there 30 minutes.

Q. 30 minutes?

A. And talked with him probably less than five.

Q. Was anyone else present during any of the conversations you had with Mr. Goodman?

A. Nobody but Mr. Rodman, and he wasn't in there all the time.

Q. What time of the night was this?

A. At 8:00 o'clock.

(Testimony of Virgil MacMickle.)

Q. 8:00 o'clock at night?

A. Uh-huh (Affirmative).

Q. Was Mr. Kenneth Fitzgerald there also?

A. No.

Q. You know Mr. Fitzgerald, don't you?

A. Yes, I know Kenneth Fitzgerald and I didn't see him there. [3402]

Q. What?

A. I know him and I did not see him there.

Q. Do you know Mr. Kenneth Fitzgerald as a member of the Communist Party?

A. No, I don't know that.

Q. Did he talk to you about this case?

A. No, sir.

Q. At any time?

A. Not at any time. I haven't seen Kenneth Fitzgerald to talk to in a year or more.

Q. Did you ever treat Kenneth Fitzgerald?

A. No, I never did.

Q. Is that the only time you talked to anybody about Richard Lovelace and Wilmot?

A. The only time I recall.

Q. Did you ever talk to Mr. Gladstein about it?

A. Oh, I believe I did talk with Mr. Gladstein.

Q. When? A. Well, when I landed here.

Q. When you landed here?

A. Uh-huh (Affirmative).

Q. When did you come down here?

A. I came down Thursday night.

Q. Thursday night?

A. Uh-huh (Affirmative).

(Testimony of Virgil MacMickle.)

Q. Of your own accord? [3403]

A. Well, I was told in Portland that if I didn't come Thursday night then there would be a subpoena for me, and in view of the flying conditions and everything I decided—

Q. (Interposing) Had you been subpoenaed in Portland? A. No.

Q. What?

A. No, I hadn't been subpoenaed in Portland.

Q. Who asked you to come down here?

A. Irving Goodman asked me to come down here.

Q. And who paid for your transportation?

A. Irving Goodman paid for the transportation.

Q. How much did he give you?

A. He paid it direct to the—

Q. (Interposing) Huh?

A. He paid it direct to the United Aircraft.

Q. He purchased your transportation?

A. That's right.

Q. Did he give you any money? A. No.

Q. Did he promise you any money?

A. No, he did not.

Q. Did you discuss with him the payment of any money for your testimony here?

A. No, no, I didn't. [3404]

Q. Did he promise you any reward?

A. No.

Q. Compensation of any kind? A. No.

Q. And you arrived here when?

A. Well, the plane arrived, I think, about 2:20 at the Oakland Airport.

(Testimony of Virgil MacMickle.)

Q. And where did you go from there?

A. To the Palace Hotel.

Q. Did you get in contact—did you contact Mr. Gladstein? A. No.

Q. When did you contact Mr. Gladstein?

A. The first time was on Friday morning.

Q. The first time was on Friday morning?

A. Uh-huh (Affirmative).

Q. And did you have any conversation with Mr. Gladstein Friday morning?

A. Very brief conversation.

Q. And where was that? Where was that?

A. In his office.

Q. Who else was present?

A. Well, I think Mr. Grossman was in and out, or—

Q. (Interposing) You say you had a very brief conversation with him? [3405] A. Yes.

Q. For how long a period would you say?

A. Well, I would say the actual conversation might have been five to ten minutes, because there were—

Q. (Interposing) What did Mr. Gladstein say to you?

A. Well, just discussed with me the fact of my having come down here to be a witness.

Q. To be what kind of a witness, did he say?

A. Well, character witness.

Q. Against whom?

A. Lovelace and Wilmot.

Q. Give me all the conversation that you recall.

(Testimony of Virgil MacMickle.)

A. I wouldn't remember all the conversation because it was fragmentary and there were people in and out; frequent interruptions.

Q. Did he ask you how long you had known Mr. Lovelace and Mr. Wilmot?

A. I don't recall that that question came up, no.

Q. He didn't ask you that?

A. Not to my knowledge.

Q. Did he ask you how friendly you had been with Mr. Wilmot and Mr. Lovelace?

A. I don't think he had time to go into that.

Q. He didn't go into that. Did he ask you if you knew what Mr. Lovelace's reputation was for truth and veracity?

A. No, I don't think he went into that. [3406]

Q. He didn't ask you that. Did he ask you if you knew what reputation Mr. Wilmot had for truth and veracity?

A. I don't recall any such conversation.

Q. Did Mr. Grossman ask you these questions that I have just propounded?

A. No, no. I just saw Mr. Grossman fleetingly as he came in and out.

Q. Did Mrs. King ask you? A. No.

Q. Did any of defense counsel ask you what you knew about Mr. Wilmot's and Mr. Lovelace's reputation for truth and veracity?

A. No. There wasn't any time for any great amount of conversation at all.

Q. Did anyone ask you? A. No.

Q. Either in San Francisco or in Portland?

(Testimony of Virgil MacMickle.)

A. No.

Q. Did they ask you about the threatening letters—alleged threatening letters that Mr. Lovelace had written?

A. I think I devulged that for myself.

Q. To whom?

A. To Mr. Goodman in Portland.

Q. Mr. Goodman. Did you mention it to Mr. Gladstein?

A. Yes. When I got here I mentioned it to Mr. Gladstein. [3407]

Q. You were subpoenaed after you arrived in Los Angeles—in San Francisco, is that correct?

A. That's right. That's right.

Mr. Del Guercio: May I ask the Court's indulgence for just a few moments?

Presiding Inspector: Yes, you may. [3408]

By Mr. Del Guercio:

Q. Well, for how long a period had you know Mr. Wilmot?

A. I think I said on Friday about since 1936; somewhere along in there, but I wouldn't be too positive.

Q. From 1936 to when?

A. Well, from 1936 until the present time, I still consider I know him.

Q. What were your relations with Mr. Wilmot?

A. Well, he was ill at various times, and came—

Q. (Interposing) He was what?

A. Ill at various times.

Q. Did he come to you as a patient?

(Testimony of Virgil MacMickle.)

A. Yes; he came to me as a patient.

Q. That is how you met him the first time?

A. I think that is the way I first met him.

Q. And when was that, you say, about when?

A. Oh, I would say that would be somewhere in 1936, to place it as nearly as I could.

Q. And for how long—on how many occasions would you see him from 1936 to the present time?

A. I couldn't tell you that, because he was in and out at various times.

Q. Did he ever come to your office other than as a patient? [3409]

A. I didn't quite get that.

Q. Did he ever appear in your office other than as a patient?

A. Oh, yes; just like any of my patients, they feel free to come in and say "Hello." If he happened to be in my neighborhood I suppose he has been in there at times when he wasn't a patient.

Q. Could you say how many times he appeared at your office as a patient?

A. No, I couldn't say that.

Q. Approximately?

A. No, I couldn't even say it approximately.

Q. Do you keep any records at all of your patients?

A. Where they are paid patients, I do.

Q. Was Mr. Wilmot a paid patient?

A. No. He never was a paid patient.

Q. Was he a pay patient when he first appeared at your office?

A. No; no.

(Testimony of Virgil MacMickle.)

Q. Well, did he come up alone to your office the first time?

A. That I don't remember.

Q. Did you treat him?

A. Yes, I treated him.

Q. What did you treat him for? [3410]

A. Psoriasis—P-s-o-r-i-a-s-i-s.

Q. How do you know, from your memory or from your records?

A. Well, because I saw him repeatedly and he always had the same skin trouble. It would be easy to remember it.

Q. Did you make a record? A. No.

Q. Did you ask him for payment for the treatment? A. No, I never did.

Q. You had never seen him before that time, had you?

A. I know from what he told me he was out of work, hard up, and in need of treatment, and we took care of him on that basis.

Q. Did he tell you at that time that he was a member of the Communist Party?

A. No.

Q. When did he tell you that he was a member of the Communist Party?

A. Well, I don't remember exactly when he might have told me that. I doubt if he was a member of the Communist Party at that time; perhaps.

Q. Do you know when he dropped out of the Communist Party? A. No, I don't.

Q. Did he ever tell you? [3411]

(Testimony of Virgil MacMickle.)

A. No.

Q. Did he ever confide in you?

A. No, not particularly on that thing, you know.

Q. When Mr. Wilmot first appeared at your office did he say someone had sent him down?

A. He probably did. He probably said he had been referred there. That is the way a good many people come in.

Q. Did he say that he had been referred to your office by the Communist Party?

A. No, he certainly wouldn't say that.

Q. Did he say that he had been referred to your office by Mr. Rapport? A. No.

Q. Did you ever take any money from Mr. Wilmot? A. No.

Q. What? A. No; never.

Q. Would you say that you had treated him about ten times during the period of time that you knew him?

A. I would say ten or a dozen times. If you meant individual treatments, probably considerably more than that.

Q. How much more, twenty times?

A. Yes—I would hate to say, because sometimes he would be in every day for three or four days, while at other times he would be missing for several weeks before he would [3412] come back in.

Q. Is there anything in the state law requiring you to keep records of treatments you give patients?

A. No, there isn't.

Q. You know that?

(Testimony of Virgil MacMickle.)

A. I am certain of it.

Q. What? A. I am certain of it.

Q. Did you consult the law on that subject?

A. No, I didn't.

Q. Did you get advice from counsel?

A. No.

Q. What?

A. No, I never got advice from counsel on it.

Q. Do you know if Mr. Lovelace had ever been arrested during his lifetime?

A. Only that he told me he had.

Q. You don't know that of your own knowledge?

A. No, I don't.

Q. Had anyone told you that he had ever been arrested?

A. No, I don't know that I ever had anyone tell me he had been except himself.

Q. Did he ever tell you that he used the name of James Martin?

A. No, he never told me that. [3413]

Q. Didn't he tell you that that was his Communist Party name? A. No.

Q. Did you ever assist Mr. Lovelace in his lifetime in raising funds to support the Spanish Loyalists?

A. In the way of making speeches, I think I did; yes.

Q. You think you did. Do you know if you did or not?

A. Well, I know I talked in behalf of the Spanish Loyalists, not only at public gatherings, but over the radio.

(Testimony of Virgil MacMickle.)

Q. And who asked you to do that?

A. Oh, as far as the public audiences were concerned, I don't know who would have asked me. I mean it might have been various organizations.

As far as the radio was concerned, I did it on my own move. I was on the radio discussing current questions.

Q. Mr. MacMickle, I will ask you this question again: Who asked you to speak——

Mr. Gladstein: (Interposing) I submit the question has been asked and answered.

Mr. Del Guercio: I haven't finished the question.

Presiding Inspector: Let him finish.

By Mr. Del Guercio:

Q. (Continuing) Who ask you to speak on behalf of the Spanish Loyalists and recruits to go to Spain?

Presiding Inspector: If you can tell. [3414]

A. I don't remember.

By Mr. Del Guercio:

Q. How many times did you speak on behalf of the Spanish Loyalists and recruits to go to Spain?

Mr. Gladstein: I object to this as immaterial. I don't see how that would bear——

Presiding Inspector: I don't see how it would bear either.

Mr. Del Guercio: If your Honor please, there is evidence in the record, as the Court will recall, that the Spanish Loyalists were supported by the Communist Party.

Presiding Inspector. They received contribu-

(Testimony of Virgil MacMickle.)

tions, undoubtedly, but what difference does it make?

Mr. Del Guercio: It shows that this man's conduct during that period of time was such that—

Presiding Inspector: Well, no doubt hundreds of people contributed to the Spanish Loyalists.

Mr. Del Guercio: This concerns not only the Spanish Loyalists, but also the League Against War and Fascism.

Presiding Inspector: I allowed you to examine on that.

Mr. Gladstein: I have heard, although I can't vouch for it, that some people in the State Department of the United States Government are now sorry because of the official policy of the—

Presiding Inspector: No, no; I can't hear that speech. [3415] Go ahead with the witness.

Mr. Del Guercio: Does counsel wish to testify? If so, we will put him on the stand under oath.

Presiding Inspector: Go ahead. These by-plays don't affect—

By Mr. Del Guercio:

Q. I move that the remark be stricken from the record.

Presiding Inspector: It isn't important enough. It is just gossip of the occasion.

Mr. Del Guercio: He spoke apparently with knowledge..

Presiding Inspector: I know.

By Mr. Del Guercio:

Q. Do you know Mrs. Lovelace equally as well

(Testimony of Virgil MacMickle.)

as you say you knew Mr. Lovelace during his lifetime? A. No, I didn't.

Q. Huh? A. No, I didn't?

Q. How many times did you visit Mr. Lovelace at his home? A. Twice.

Q. Twice? A. Yes.

Q. During all the time that you knew him?

A. That is right.

Q. And the last time, I believe you testified, you had [3416] dinner at his home?

A. That is right.

Q. Did you take your wife with you?

A. No. My wife was not in town at the time, which was the reason they invited me to dinner, by the way.

Q. What?

A. Which was the reason they invited me to dinner, by the way.

Mr. Del Guercio: I didn't hear it.

Presiding Inspector. He said his wife was not in town and that was the reason they invited him, took pity on him, his loneliness.

By Mr. Del Guercio:

Q. Did Mr. Lovelace know your wife?

A. Casually, I think.

Q. Had you ever introduced him to your wife?

A. Yes.

Q. Did he ever appear at your home?

A. No.

Q. Did you ever invite him to your home?

A. No.

(Testimony of Virgil MacMickle.)

Q. Did he know your daughter?

A. He met her—she came into my office to visit me.

Q. Did you introduce him to your daughter?

A. Certainly. [3417]

Q. When was that?

A. Oh, that was when I first knew him.

Q. When was that?

A. Well, I would say in the early thirties—1933, somewhere along in there.

Q. Did he continue to know your daughter?

A. He always spoke of her if he happened to be in the office when she came in; certainly.

Q. Would you say that he saw and met and talked with your daughter until the time of his illness which required him to go to the Veterans Hospital?

A. Well, I think you could say that he spoke to her. I don't think he engaged in conversations of any character with her.

Q. Did you ever object to him speaking to your daughter?

A. No, not particularly. I wouldn't object to anybody speaking to my daughter in my office so long as they spoke civilly and decently.

Mr. Del Guercio: I move to strike it out.

Mr. Gladstein: I think it is proper.

Presiding Inspector: I think it is proper.

By Mr. Del Guercio:

Q. Did Mr. Lovelace speak to your daughter civilly?

(Testimony of Virgil MacMickle.)

A. I don't see how he could do otherwise. I think he did.

Q. Do you have any information to the contrary? [3418]

A. I have no information to the contrary.

Q. Did you ever tell Mrs. Lovelace that you had loaned money to her husband?

A. No, I never did.

Q. Have you seen Mrs. Lovelace since the death of her husband?

A. I saw Mrs. Lovelace the evening after the funeral.

Q. The evening after the funeral? A. Yes.

Q. Where did you see her?

A. I happened to be in Fred Meyers' store coming in to make a purchase, and she was coming out.

Q. Did you ever tell her that you didn't believe that her husband, during his lifetime, did not have a good reputation for truth and veracity?

A. No. I never discussed it with her.

Q. You knew that Mr. Lovelace had testified at this hearing, did you not, before Thursday?

A. Yes; I had seen that in the newspaper.

Q. You knew Mr. Wilmot had testified at this hearing? A. Right.

Q. Did you go to any Government Agency, either the FBI or the Immigration Officers, since Mr. Lovelace or Mr. Wilmot appeared here to testify?

A. No. [3419]

Q. Did you write either the FBI or the Immigra-

(Testimony of Virgil MacMickle.)

tion Service concerning Mr. Lovelace or Mr. Wilmot? A. Never.

Q. Did you believe at the time that Mr. Lovelace and Mr. Wilmot appeared here to testify what you have testified here to, that their reputation for truth and veracity was bad? A. Yes.

Mr. Gladstein: I would like to have the last question read. I am not sure that I heard it correctly.

Presiding Inspector: Read the question.

(The question referred to was read by the reporter as above recorded.)

Mr. Gladstein: He said "Mr. Lovelace." Did you mean Mrs. Lovelace?

Mr. Del Guercio: I withdraw the question. I believe the witness must have misunderstood it too. I didn't mean to mislead him. Apparently it was in his mind that Mr. Lovelace did appear here to testify too.

Presiding Inspector: Is that the question?

Mr. Del Guercio: From the form of my question, yes.

Presiding Inspector: You have withdrawn it?

Mr. Del Guercio: Yes.

By Mr. Del Guercio:

Q. You knew Mr. Lovelace did not appear here to testify, didn't you? [3420]

A. Yes. I knew that he was dead.

Q. But you knew Mr. Wilmot had appeared here to testify? A. Yes.

Q. Did you, at the time that Mr. Wilmot ap-

(Testimony of Virgil MacMickle.)

peared here to testify, believe that he had a bad reputation for truth and veracity?

Mr. Gladstein: Is that Mr. Lovelace or—

Mr. Del Guercio: (Interposing) Mr. Wilmot.

Mr. Gladstein: Excuse me.

A. Yes, I believed that.

By Mr. Del Guercio:

Q. Did you communicate that to anybody?

A. No.

Q. Did you communicate it to the defense counsel?

A. No.

Q. And you didn't communicate it to any Governmental agency?

A. No.

Mr. Gladstein: That has already been asked and answered.

By Mr. Del Guercio:

Q. Did you know that Mr. Lovelace, that Mr. Lovelace's statement had been introduced into the record of this hearing?

Mr. Gladstein: I submit that is immaterial.

Presiding Inspector: I don't see how it is material. How is it material? [3421]

Mr. Del Guercio: It is material in that if he professed to have knowledge as to the bad character, as a good citizen, it would have been his duty to have told the Government officers.

Presiding Inspector: That is pretty remote.

Mr. Del Guercio: That will be all.

Mr. Gladstein: A few questions, please.

(Testimony of Virgil MacMickle.)

Rediret Examination

By Mr. Gladstein:

Q. Have you ever testified in court as a witness?

A. As a witness?

Q. Yes.

A. Many times. I say "many times." Perhaps ten or a dozen times.

Q. In what capacity have you testified?

A. I have testified as an expert witness on medical questions.

Q. Concerning naturopathy?

A. Yes; and the distinction between naturopathy and medicine and concerning conflicts between the two laws.

Q. Speak up so the reporter can hear you.

A. I say, where there would be a conflict between the interpretations of the two laws I would be called in as an expert witness to testify; yes.

Q. When is the first time, to your recollection now, that you testified on the subject of naturopathy in court? [3422]

A. In 1928, I think it was; '27 or '28.

Q. And when was the last time that you testified?

A. Well, roughly, I suppose around 1938.

Q. How many of the ten or twelve times that you have testified in court have occurred since 1929?

A. Most of them; nine or ten of them.

Q. Your testimony, was it given in deposition form or was it given in open court?

A. Given in open court.

Q. What courts.

(Testimony of Virgil MacMickle.)

A. Well, in the District Courts and in the Circuit Courts.

Q. In the State of Oregon?

A. In the State of Oregon.

Q. In any of those cases have you ever been asked or told as to whether or not any alleged affidavit had ever been made charging you with an abortion?

A. No, I haven't.

Mr. Del Guercio: Object to that, if your Honor please.

Presiding Inspector: How could it be expected? Of course, you might ask whether it had ever been shown here and there, and whether he has ever seen the affidavit.

Mr. Gladstein: He says "No."

Presiding Inspector: Has he ever heard about it?

By Mr. Gladstein: [3423]

Q. Have you ever seen the alleged affidavit, which counsel has referred to today, and which has been marked as Government's Exhibit for identification—the number of which I don't know—

Mr. Del Guercio: (Interposing) 262.

By Mr. Gladstein:

Q. Have you ever seen that before?

A. No.

Q. Have you ever heard of it before?

A. No.

Q. Has it ever been shown to you?

A. No.

(Testimony of Virgil MacMickle.)

Q. Has anybody ever mentioned it in court before? A. No.

Q. Have you ever been charged officially before any medical or any other board with the contents of that affidavit, or alleged affidavit?

A. Never.

Q. Now, on Friday there was some testimony with respect to your having delivered a talk at a meeting of men who are members, some of them were members of the IWW. Have you led an active life in the civic affairs of Portland since you have lived there? A. Yes.

Mr. Del Guercio: I object to the question, if your honor [3224] please, the form of it.

Presiding Inspector: It is pretty general.

Mr. Gladstein: It is preliminary.

Presiding Inspector: Very well. I will take it.

By Mr. Gladstein:

Q. Have you delivered many talks?

A. A great many.

Q. These were on public occasions?

A. Public occasions.

Mr. Del Guercio: I object to that. What are public occasions? What public occasions?

Mr. Gladstein: I am coming to that.

Presiding Inspector: We will let you canvass that.

By Mr. Gladstein:

Q. Other than the meeting that was in the IWW hall, can you mention some of the other organiza-

(Testimony of Virgil MacMickle.)

tions in Portland before whom you have given talks or speeches, or addresses?

A. Yes. I gave an address before the Rose City Methodist Episcopal Church—

Mr. Del Guercio: (Interposing) Speak louder.

Mr. Gladstein: Speak up.

A. Yes. I gave an address before a gathering in the Rose City Methodist Episcopal Church, in conjunction with Dr. Stewart from Reed College. He was on the same program.

I forget, but there was some other speaker that night. [3425]

Then I have delivered addresses before, oh, the Portland Health Club.

I have lectured to the Parent-Teachers Association on innumerable occasions, and sometimes, several times to the same particular local, or whatever you call it, on dietary matters.

I have lectured, I have addressed the Willamette Society.

I have spoken frequently before the Lincoln Club.

Of course, I have spoken in the Chapel at Reed College.

I couldn't begin to think up off-hand all of the places that I have talked at. I have talked in the City Auditorium, I have talked in the Masonic Temple. I guess I have talked about all over Portland.

By Mr. Gladstein:

Q. Have you ever talked to the Women's Federation?

(Testimony of Virgil MacMickle.)

A. Yes, I have talked to the Women's Federation.

Q. Now, have you ever served, or do you now serve in any capacity in behalf of or in connection with Reed College?

Mr. Del Guercio: Who?

Mr. Gladstein: Reed College.

A. Yes. I was Chairman of the Parent Associations Committee on Student Health, some two months or such a matter ago; maybe three months.

Q. Are you now serving in this capacity?

A. Yes.

Q. Where is Reed College located? [3426]

A. That is located in Portland, out in the East Moreland territory.

Q. Have you ever written any articles or books?

A. Yes. I wrote a book on diet that was published both in Chicago and in London.

I have written articles for different magazines. I wrote one for Nation, for instance, when the political upheaval in Oregon occurred in 1931 and Julius Meyer was elected on the public power power program. I was solicited by Nation to write an article on the developing of the publicly owned hydroelectric situation there.

Mr. Del Guercio: I move that the witness answer be stricken as not responsive. Counsel merely asked—

Presiding Inspector: It is true it is partly not responsive, but I will let it stand.

(Testimony of Virgil MacMickle.)

By Mr. Gladstein:

Q. Have you ever edited any magazine?

A. Yes. I edited a magazine gotten out by our Association in 1917, on, called Oregon Naturopath. I edited that for about 18 months, if I remember rightly.

For the last four months I have edited a magazine called Vitality.

Q. Who puts that out?

A. That is put out by a group of drugless physicians up there. It is a health magazine. [3427]

Q. Now, do you know whether the profession of naturopathy is recognized in any other states besides Oregon?

A. Yes. My last information was that there were seven other states and the District of Columbia that recognize it.

Q. Doctor, the Economic Research Council has been mentioned, and you have testified as to the manner in which that started. Would you state again, please, when that was started?

Mr. Del Guercio: I object to that as being improper redirect, that is, to ask him to state again what he has previously testified to.

Presiding Inspector: Under whose examination did it occur?

Mr. Gladstein: During cross examination.

Presiding Inspector: I will take it.

A. Well, the circumstances were these—

(Testimony of Virgil MacMickle.)

By Mr. Gladstein:

Q. (Interrupting) Just when, first?

Presiding Inspector: You didn't cover this on your direct?

Mr. Gladstein: No, I didn't mention it.

A. I think it was in either late 1932 or early in 1933.

By Mr. Gladstein:

Q. Is that Council still functioning?

A. Yes, it is.

Q. Have you maintained your connection with it since the beginning?

A. Yes; except that I don't get in there very often, [3428] haven't during the last year because I haven't had time.

Q. What, in general, is the purpose of the Council?

A. Well, it is to discuss political and economic and social questions in the interests of those people who felt they would like to be better informed on various questions so they can vote more intelligently and conduct themselves as a better member of American society.

Q. Have you been Chairman, or President, or Presiding Officer of that Council? A. Yes.

Q. During what period?

A. Well, I was President of it, I think, during, oh, well, 1934. I refused the Presidency of it several times because I thought it was just as well not to be President. I didn't care for the job and the responsibility of it.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: I move, your Honor, that that be stricken. It was not responsive to the question.

Mr. Gladstein: He said he was President in 1934 and then he wouldn't take it after that.

Presiding Inspector: I think we had better not go into the possibilities of his taking it.

By Mr. Gladstein:

Q. Were you again President at any subsequent time?

Presiding Inspector: Strike all that except that he was President in 1934. [3429]

By Mr. Gladstein:

Q. Do you recall whether you were, Doctor, since 1934?

A. I was nominated a couple of times, but I didn't accept.

Q. You haven't been—

Mr. Del Guercio: (Interposing) I move the Witness' answer be stricken.

Mr. Gladstein: I think it is responsive.

Presiding Inspector: Well, I think it had better go out. I don't think it is material.

Mr. Gladstein: Yes. All right.

By Mr. Gladstein:

Q. Have you ever had noted people address the meetings of that Economic and Research Council?

A. Oh, yes.

Mr. Del Guercio: I object to the question, if your Honor please, as being immaterial and irrelevant.

Mr. Gladstein: I want to show the character

(Testimony of Virgil MacMickle.)

of the organization. There is an inference contained in every question Mr. Del Guercio asked on cross examination as to the character of this Council. I want to bring out just what it was.

Mr. Del Guercio: We can go further into that too.

Mr. Gladstein: Go as far as you like.

Mr. Del Guercio: We can produce evidence—

Presiding Inspector: Never mind. [3430]

Mr. Del Guercio: (Continuing) —as to the nature of the organization.

Presiding Inspector: What is it you want to ask just now?

Mr. Gladstein: I want to find out—

Presiding Inspector: Whether noted persons have spoken before that Council?

Mr. Gladstein: Yes. And, if so, which ones.

Presiding Inspector: That calls for all kinds of conclusions.

Mr. Gladstein: Your Honor may agree, after he names some people, they may not be as noted in your mind as in his, but nevertheless I think I am entitled to show that.

Presiding Inspector: You may ask who addressed them. [3431]

By Mr. Gladstein:

Q. Will you name some of the people who did address the Economic Research Council?

A. Well, let's see! One of them was our State Treasurer.

Q. State of Oregon?

(Testimony of Virgil MacMickle.)

A. Yes. And he addressed us so that we might know what the standing of the State's finances were. We were interested in that.

Mr. Del Guercio: Well, I will object to that. Do I understand that the Court is only limiting it to the name and not to what they addressed them on?

Mr. Gladstein: I think he is entitled to answer as to what they addressed them on.

Presiding Inspector: That was my idea, but I think I will let the subject of this man's address, the State finances, stand.

By Mr. Gladstein:

Q. Who else?

A. Then we had a man whose name I can't remember—he was a graduate of Yale; if I remember rightly—who addressed us on the Relation of Religion or Religious Organization to organized labor.

Q. Can you recall any people by name? Any others?

A. Let's see! Yes. Martin Hall, who came here from [3432] Germany after the Nazi shake-up, and he came here and he addressed us a couple of times. And let's see!

Q. Did you ever have any professors from Reed College? A. Well, wait a minute!

Q. Or any other university?

Mr. Del Guercio: Your Honor, I will object to that as suggestive and leading.

Presiding Inspector: I know it. He has exhausted his recollection and now Mr. Gladstein is

(Testimony of Virgil MacMickle.)

refreshing his recollection, which is proper procedure; or at least he claims to have exhausted his recollection.

A. I don't recall that we ever had anybody from Reed College address the audience. We had a good many speakers who talked also at Reed College and then talked at our organization. I could probably think of a dozen of them after I get away from here.

Mr. Del Guercio: I move that that be stricken, your Honor, as not responsive.

Presiding Inspector: Strike that out.

Mr. Del Guercio: And I ask that the witness be admonished.

Presiding Inspector: Well, it was a natural remark, but not proper on the witness stand. That's all.

By Mr. Gladstein:

Q. Now, Doctor, at the time that you addressed the [3433] IWW, some twenty years ago; I think the record shows, do you know whether as of that time there were any trade unions of any comparable size to the IWW who were not in the IWW in the Pacific Northwest?

Mr. Del Guercio: If your Honor please, I object to that as being, first of all, compound and ambiguous.

Mr. Gladstein: I am asking him if he knows.

Presiding Inspector: This is a new subject.

Mr. Gladstein: No.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: This man is a Doctor, if your Honor please. Is he qualifying him as a union man, too?

Mr. Gladstein: No. On cross examination Mr. Del Guercio brought up the fact that the Doctor had addressed a meeting in the IWW Hall, and I think it was some twenty years ago. I am not sure of the date. I now wish to show—and this is something that could have been a matter of pretty common knowledge in the Pacific Northwest—that most of the workers who were organized in organized labor in the Pacific Northwest, and that would include Oregon, twenty years ago, were in the IWW, and there were no other trade unions of any comparable size.

Mr. Del Guercio: Well,—

Mr. Myron: (Interposing) Mr. Gladstein, is he testifying in this case? He probably is testifying for the witness.

Mr. Gladstein: Is that an objection? [3434]

Mr. Myron: The question, I think, and the answer which he expects is immaterial to the case. Doesn't make any difference.

Presiding Inspector: Well, I think I will take it.

Mr. Gladstein: All right, your Honor.

Presiding Inspector: I think it may go to the disadvantage of the questioning counsel. I think you ought to be careful about asking that, but I will allow it.

Mr. Gladstein: I would like to get your Honor's

(Testimony of Virgil MacMickle.)

thoughts on that. Obviously I don't want to ask a question which you think should not be asked.

Presiding Inspector: This is new matter, I think.

Mr. Gladstein: I beg your pardon.

Presiding Inspector: You are now covering new matter.

Mr. Gladstein: They touched on it in cross.

Presiding Inspector: He said he made a speech at some hall, that's all. But you may have it. I will take it. You may answer.

By Mr. Gladstein:

Q. Do you understand the question?

A. I think I understand it. My answer will reveal whether I did. I think that at that time the IWW was probably the biggest body of organized labor in the Northwest.

Mr. Gladstein: That's all. [3435]

Recross Examination

By Mr. Del Guercio:

Q. Were you a member of the IWW?

A. No.

Q. Were there any American Federation of Labor unions at that time?

A. Yes, there were.

Q. Is the American Federation a small or big union?

A. I think in the Northwest it was smaller than the IWW.

(Testimony of Virgil MacMickle.)

Q. How many were there in the Northwest that belonged to the A. F. of L.? Do you know?

A. No, I don't know, but—

Q. (Interposing) Well, you have no information on it at all, have you?

A. No. That was just the general impression at the time.

Q. Whose impression—

Mr. Gladstein: (Interposing) Just a moment! Let the witness answer the question.

Mr. Del Guercio: He is answering the question. He is doing fairly well.

Mr. Gladstein: He certainly is. And you don't like it, that is why you interrupt.

Your Honor, Mr. Del Guercio did interrupt the last answer. [3436]

Presiding Inspector: Yes, maybe. I don't know. If there is anything more you want to say on that you may say it.

The Witness: Well, simply that it was my general understanding that that was the biggest organization of labor in the Northwest at the time.

By Mr. Del Guercio:

Q. How did you get that understanding? How did you arrive at that?

A. From conversations and from the hullabaloo that the newspapers made over it.

Q. All right. What conversations did you have?

A. Oh, well, with patients and friends.

Q. Who? You had patients then, too?

A. Why, certainly I had patients.

(Testimony of Virgil MacMickle.)

Q. What kind of patients were they? IWW patients?

A. Why, some of them doubtless were. I don't know.

Q. All right. And they told you that the IWW was a big organization?

A. I didn't say that.

Q. You heard of the Hayward trial, didn't you?

Mr. Gladstein: I will object to that as immaterial.

Presiding Inspector: I will take it, whether or not he heard of it. "Yes" or "No".

A. Yes, I heard of it. [3437]

By Mr. Del Guercio:

Q. What kind of a trial was that?

Mr. Gladstein: I will object to that as immaterial.

Presiding Inspector: We can't go into that.

Mr. Del Guercio: If your Honor please,—

Presiding Inspector: (Interposing) No, we can't go into that. We can't re-try the Hayward trial.

By Mr. Del Guercio:

Q. You knew that the IWW began disorganizing shortly after the Hayward trial?

Mr. Gladstein: I will object to that as improper and assuming something not in evidence, immaterial.

Mr. Del Guercio: I will withdraw that question and ask this:—

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. When was the Hayward trial, Mr.——

A. (Interposing) I don't remember.

Q. Well, I will refresh your memory. Was it in 1919?

A. I wouldn't remember it if it were.

Q. It was shortly after the World War, wasn't it?

A. I wouldn't even be certain of that in my own mind.

Q. Now, do you profess to be an expert in IWW matters?

A. No, far be it from such.

Q. What?

A. Far be it from that. I am not an expert on it. [3438]

Q. How many members were there in the IWW organization?

Mr. Gladstein: I will object to that as immaterial.

Presiding Inspector: You brought it out yourself.

Mr. Gladstein: I brought out merely this:——

Presiding Inspector: (Interposing) I will take it.

Mr. Gladstein: (Continuing) ——The witness said it was his understanding and his general impression that the IWW was the largest organization in the Northwest.

Presiding Inspector: Now he is testing the truth of that statement, and I will take it. I warned you, Mr. Gladstein, about this.

(Testimony of Virgil MacMickle.)

Mr. Gladstein: Well, there is one way to disprove it if the statement is wrong, and that is for Mr. Del Guercio to bring in witnesses to show to the contrary.

Presiding Inspector: He is testing the recollection of this witness in this way. There may be other ways.

By Mr. Del Guercio:

Q. How many members were there?

A. No—

Presiding Inspector: (Interposing)* If you can't say, say so.

A. (Continuing) No, I can't say, frankly. I wouldn't know.

By Mr. Del Guercio: [3439]

Q. Were there more than 50?

A. I would certainly assume there were more than 50 because of the disturbance and the noise made about it.

Q. Well now, how can you know that there were more than 50?

A. I couldn't conceive of there being less than 50 people because of the disturbance that the newspapers were making in the head lines.

Q. Now, what kind of disturbance were they making?

A. Well, "disturbance" wasn't exactly the right word, but would be "charged" by the newspapers as being a disturbing factor would be a better way to put it.

(Testimony of Virgil MacMickle.)

Q. What did the newspapers charge them with doing?

Mr. Gladstein: I will object to that as immaterial.

Presiding Inspector: Yes. I think that is going a little too far. We don't care about the newspaper statement. All you want to show is that there was a good deal of publicity in the newspapers.

By Mr. Del Guercio:

Q. Did you know at that time that the IWW were engaged in sabotage?

Mr. Gladstein: I will object to that as not only highly improper, but it hasn't yet been proved in this case. It is assuming something that is directly contrary to the evidence. The only witness on the IWW— [3440]

Mr. Del Guercio: (Interposing) Now, if your Honor please, counsel should be admonished.

Presiding Inspector: Do you know one way or the other?

The Witness: No, I don't know.

By Mr. Del Guercio:

Q. Did you know at that time?

Presiding Inspector: He says he doesn't know one way or the other. Now you want to ask him if he knew at that time?

Mr. Del Guercio: Yes.

Presiding Inspector: Very well. Did you know at that time?

(Testimony of Virgil MacMickle.)

The Witness: The question isn't clear in my head again.

Presiding Inspector: Read the question before the last, Mr. Reporter.

(The question referred to was read by the reporter as follows:

"Q. Did you know at that time that the IWW were engaged in sabotage?"

A. No, I didn't know it.

By Mr. Del Guercio:

Q. Did you know that they were engaged in the unlawful destruction of property?

A. No, I didn't know that.

Q. Were they ever accused of being—— [3441]

Mr. Gladstein: (Interposing) Ha! Ha!

Mr. Del Guercio: I want to get through but counsel laughed.

Mr. Gladstein: No, counsel stopped and watched me, your Honor.

Presiding Inspector: Go on. You may withdraw the question and start again.

Mr. Gladstein: I will withdraw the laugh.

Presiding Inspector: Go ahead.

By Mr. Del Guercio:

Q. How many IWW members did you know?

Mr. Gladstein: I think that is immaterial and I object to it.

Presiding Inspector: No, I will take it.

A. Well, frankly I wouldn't know.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Would you know about 50?

A. Oh, I doubt if I ever knew that many. My goodness! I may have known eight or ten, mostly by sight but not by name.

Q. Will you give us some of their names?

A. No. I say I may have known eight or ten mostly by sight, but not by name. I wouldn't be able to give you the names.

Q. How many were there at this meeting that you addressed [3442] this IWW meeting?

A. Oh, I suppose possibly there might have been somewhere between fifty and a hundred people there.

Q. I believe you testified that you had studied under Andre Tridon?

Mr. Gladstein: That is not proper recross examination and I object to it.

Presiding Inspector: No. I don't know. If you have any idea that you want to bring out, you, of course, may do it if you have overlooked it.

Mr. Gladstein: I think we should have a statement from counsel on it. If he is just going to cover the same ground——

Presiding Inspector: No. I don't think you ought to do that. We had better not go into what he testified to, but if this is new matter I would be glad to hear the question.

Mr. Del Guercio: I will withdraw that question and put it this way:——

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Did Mr. Tridon advise you as to the nature of the IWW?

A. We never even discussed it.

Q. Huh?

A. And I doubt if that is the same man. There was a Mexican by the name of Andre Tridon, too, and it may have been he that you spoke about. I don't know because I have no recol- [3443] lection.

Q. Did you know the Mexican, Andre Tridon?

A. No, I didn't know him but I have seen reference to him.

Q. But you did know the Frenchman, Andre Tridon? A. That's right.

Q. And it is the Frenchman that you studied under?

A. That's right. It was the Frenchman.

Q. Now, Mr. MacMickle, you testified there you appeared on numerous occasions as a medical expert?

A. I said as an expert witness in medical trials, yes.

Q. In medical what?

A. In cases involving medical questions.

Q. Well, were you called as an expert on medical matters?

A. What do you mean by that? Do you mean medical—

Q. (Interposing) What do you mean by it?

Presiding Inspector: I think there is some question there.

(Testimony of Virgil MacMickle.)

Mr. Del Guercio: What?

Presiding Inspector: He hasn't said that he testified in the ordinary sense as a medical expert.

Mr. Del Guercio: That is what I am trying to bring out, as to whether he did or not.

Presiding Inspector: Well, you assume that he did, and he, as I recollect it,—his testimony is that he gave expert testimony in relation to the conflicts in different areas [3444] of the province of medicine and of naturopathy.

By Mr. Del Guercio:

Q. Did you ever study medicine?

A. No, no. That's why I asked you the question. I wanted to know whether you meant in the specific sense or in the generic sense.

Q. Are you an alienist?

A. No, no. I am not an alienist.

Q. What is the first time you appeared as a witness? A. In 19—it was either '27 or '28.

Q. And who called you as a witness?

A. I was called by the—by counsel for Dr. Mayville. Circuit Judge Knowles presided.

Presiding Inspector: You may, if you wish, ask him if he ever appeared as an expert other than in this line, which I have indicated very roughly.

Mr. Del Guercio: I might ask that question.

The Witness: If I have appeared as an expert?

Presiding Inspector: Yes.

The Witness: In other than—

Presiding Inspector: (Interposing) Yes, testi-

(Testimony of Virgil MacMickle.)

fying as to causes or results of disease or anything of that kind.

The Witness: Yes, I have.

Presiding Inspector: Then he has testified more broadly than I understood. [3445]

By Mr. Del Guercio:

Q. Well, did you ever testify then as a medical expert?

A. Yes, not in the restricted sense of covering what would ordinarily be covered by the doctor of medicine in his—

Q. (Interposing) Then in what manner did you testify as a medical expert?

A. Well, in the generic sense of the word "medical".

Q. And what sense is that? Will you explain what you mean by "generic"?

A. In the generic sense we mean simply this: That all of the healing arts are medical, but in the specific sense we mean physicians and surgeons.

Q. Well now, you have testified that you have never studied medicine? A. That's right.

Q. Do you know anything about the science of medicine?

A. Oh, I have read a great deal about it, but I am not posing—please don't misunderstand me. I am not posing as authority on materia medica.

Q. What was that word that you used?

A. Materia medica.

Q. Did you ever study Latin?

(Testimony of Virgil MacMickle.)

A. Yes. I have had, I think, four years of High School Latin.

Q. And where was that? [3446]

A. In Stanhope.

Q. Do they teach Latin in the first year of High School in Stanhope?

A. Yes. We had Latin in the first year.

Q. And continued throughout?

A. Yes, sir.

Q. Did you study Latin in this American College of Drugless Physicians?

A. No, no; other than what would come up in your technical names.

Q. When did you talk to Mr. Ernst?

Mr. Gladstein: That is not proper recross examination and I object to it, your Honor.

Presiding Inspector: No. I think we have gone over that, unless there is some particular new matter that you wish to bring out.

Mr. Del Guercio: Then I will withdraw that.

Presiding Inspector: Then you may suggest it.

Mr. Del Guercio: Excuse me, your Honor.

Presiding Inspector: That's all. I think it has been covered.

By Mr. Del Guercio:

Q. During any of the times that you appeared as a so-called expert in these Courts were you ever confronted with the name of Mrs. Plank? [3447]

A. No.

Q. Huh? A. Never.

(Testimony of Virgil MacMickle.)

Q. Were you ever examined on the question of whether or not you performed abortions?

A. Never.

Q. Did anyone—and I mean by that “anyone”—ever tell you at any time, any place, that Mrs. Plank had prepared and executed an affidavit accusing you of having performed an abortion on her?

A. No, sir.

Q. Huh? A. No.

Q. At no time? A. At no time.

Mr. Gladstein: That has been answered three times.

Presiding Inspector: Yes.

Mr. Del Guercio: Well, I wanted to make sure, if your Honor please.

Mr. Gladstein: Three more questions won't make it any more certain.

Presiding Inspector: Go ahead.

By Mr. Del Guercio:

Q. Do you recognize the handwriting of Mrs. Plank? A. No. [3448]

Q. Are you familiar with her handwriting?

A. No, I wouldn't be familiar with it.

Q. Are you familiar with her signature?

A. No.

Q. Do you have it on any of your records?

A. No.

Q. What? A. No.

Mr. Del Guercio: That is all.

Mr. Gladstein: That is all.

Presiding Inspector: Next witness.
(Witness excused.)

Mrs. King: If your Honor please, at this time we should like to take up the problem not of the general testimony of Mr. Bridges at the former hearing but of testimony directly related to the testimony that the Government introduced. There are a number of statements which were not read by counsel for the Government which directly related to the four subjects which they did take up, and I should like to read into the record that matter. I think by this evening I will have prepared for your Honor a list of the other material that we believe should be incorporated by reference, but in view of its length we are making no effort to read aloud into the record that testimony.

Mr. Del Guercio: If the Court please, may we have the [3449] references first and we may agree.

Presiding Inspector: Oh, as to the first matters?

Mr. Del Guercio: Yes, as to the first matters.

Presiding Inspector: As to the matters which you want to read?

Mrs. King: I am reading from page 2,506.

Mr. Del Guercio: 2,506. We don't have the previous testimony here. We can't check. What I had in mind was that, if counsel would give us the references now, we can check it over and come in either prepared to object or agree to its admission.

Mrs. King: Do you want this done in open Court or shall I just walk over and give them to Mr. Del Guercio? I haven't, unfortunately, a carbon copy. It is only my own manuscript.

Presiding Inspector: What is this on, this subject?

Mrs. King: This is with reference to the Western Worker and it immediately precedes the Government's excerpt which appears on page 2,508.

Presiding Inspector: Well, presumably that would be competent.

Mr. Del Guercio: Well, if it has to do with the Western Worker, yes.

Presiding Inspector: Yes.

Mr. Del Guercio: Does it have to do with the Western Worker? I don't know.

Mrs. King: Well, the second sentence mentions the [3450] Western Worker.

Presiding Inspector: Let us hear the sentence.

Mrs. King: "In the '34 strike the only newspaper that was at all friendly or in any way would print any of the real stories of what the strike was all about was the Western Worker, and eventually that paper was officially adopted by the Strike Committee as their official organ for the giving out of strike releases . . ."

Mr. Del Guercio: If the Court please, we put that in. That was put in.

Mr. Myron: That is already in the record.

Presiding Inspector: Was it already in the record?

Mrs. King: Will you wait just a minute until I refer back?

Presiding Inspector: Certainly.

Mrs. King: My copy of the record doesn't so indicate. Unfortunately, the Government didn't read

by pages but by subjects, and so I am having a little difficulty in finding it. I am wondering whether Mr. Del Guercio could tell me.

Mr. Del Guercio: Is it on the Waterfront Worker?

Mrs. King: No, it is on the Western Worker.

Mr. Del Guercio: I didn't know we had a subject on the Western Worker.

Mrs. King: You started in to read on page 2508 and the first sentence you read was "Will you tell us the circumstances under which it was decided to use the Western Worker as [3451] the official organ of the Strike Committee?"

Now,——

Mr. Del Guercio (Interposing): Well, we read from Volume 16, 2508.

Mrs. King: Yes. I am reading from page 2506. That is exactly what I said.

Mr. Del Guercio: That was under the "Communist Party Literature", the subject of the "Communist Party Literature".

Mrs. King: Well, whatever it was under, you attempted to make a point of the fact that the Western Worker was the official organ of the Strike Committee. I am attempting to read the two pages that preceded your quotation in order to show why the Western Worker was the official organ of the Strike Committee. It seems to me that it is extremely relevant.

Presiding Inspector: On your statement I think that is pertinent.

Do you object to this, Mr. Del Guercio?

Mr. Del Guercio: No, I won't object.

Presiding Inspector: You may read, then.

Mr. Del Guercio: The only reason I objected was because I thought it has already been read.

Mrs. King: I may have some difficulty for the reason that I suggested, but I think that my copy has been correctly marked and that there will be no difficulty.

Presiding Inspector: Very well. Go ahead and read it. [3152]

Mrs. King: I am starting again because the sentence was interrupted.

"In the '34 strike the only newspaper that was at all friendly or in any way would print any of the real stories of what the strike was all about was the Western Worker, and eventually that paper was officially adopted by the strike committee as their official organ for the giving out of strike releases, and the Western Worker printed a special strike bulletin—I think, a daily strike bulletin—that carried the true story of the strike. These bulletins were distributed to our membership and elsewhere.

"So there was in this respect, when it came to the point because of an organized program of feror and what-not under the guise of Communism, it didn't sit very well with the strike committee or the members of the rank and file and what-not to, in effect, say to these people, 'Well, now that you are being used and now that we are up against this, we are being told to disassociate with you. It looks like we will have to do it.' And that was done.

"So in connection with activities like that, in connection with the paper, it was necessary for us to meet and talk with Darcy. Of course, at that time we also have to remember we had a green union. Very few of the officials paid any attention to whether a man was a Communist or not. We had heard so much about it. There was no great to-do about having meetings with Darcy or anybody else. We did it openly [3453] and more or less officially.

"Q. Did you know at that time that Sam Darcy was an official in the Communist Party?"

Mr. Del Guercio: Now, if your Honor please, I move—never mind. Go on.

Presiding Inspector: Go ahead.

Mrs. King: "A. We knew that, certainly.

"Q. At that time were you an official in the union?"

"A. I was not. I was the chairman of the strike committee. As such, I was an official, but I was not a regularly elected official such as secretary or president. I was chairman of the strike committee."

And immediately after that follows the material that was read by the Government.

Mr. Del Guercio: Now, that last question and answer I think is not material to anything.

Presiding Inspector: I will let it stand.

Mr. Del Guercio: What?

Presiding Inspector: I will let it stand. I will take it.

Mrs. King: I notice that in the course of read-

ing I forgot to put in the "question" and "answer" which may cause some difficulty to the reporter. For that reason I would ask, if it may be done, that the question and answer form be kept and that the reporter be permitted to copy from the transcript rather than to take it from my reading.

[3451]

Presiding Inspector: I think that should be done.

Mrs. King: And hereafter I will remember to do it correctly.

I am now asking to read from page 2517. The Government read pages 2515 and 2516 and the last sentence of what they read reads as follows:

"Eventually, of course, as the trade union movement got going and the Marine Workers Industrial Union was disbanded, Jackson—I think he is black-listed in possibly every port in the United States because of trade union activity."

That is the close of the Government's quote.

Presiding Inspector: They put that in?

Mrs. King: Yes. The next page, page 2517, begins as follows:

"Q: You say, he is blacklisted?

"A. —"

Mr. Del Guercio (Interposing): Well now, your Honor, when should I object to this? This is another subject entirely.

Presiding Inspector: Well,—

Mr. Del Guercio (Interposing): And I think I ought to object before the question and answer is read.

Presiding Inspector: I think it is pertinent on the same subject as to what you put in.

Mr. Del Guercio: Will the Court hear me?

Presiding Inspector: Certainly.

Mr. Del Guercio: Of necessity other matters creep in because of the person answering the question wandering off. [3455] Other matters come in, but we have to read the whole question and answer.

Presiding Inspector: I know, but I can't read your mind and you did put it in and I will take this. You may read it.

Now, on this subject of "blacklisting" of Jackson, I will take it as far as it goes to that. If it wanders off to some other subject, then you ought to stop and we will consider that.

Mrs. King: I think this all pertinent. It is all on this page 2517.

Presiding Inspector: All right, proceed.

Mrs. King:

"Q. You say he is blacklisted?"

"A. Yes. Well, there have been a lot of people less affected than Jackson who have been blacklisted, . . ."

Mr. Del Guercio: Now, I move that that be stricken out. That doesn't apply to Jackson at all.

Presiding Inspector: I will let it stand. I will take it.

Mrs. King: ". . . so I presume he is certainly blacklisted. So it has always been my policy when I ran into Jackson to ask him how he was getting along and if he was hard up, and, if so, I would give him a couple of dollars."

Mr. Del Guercio: I move to strike that out as not connected with any previous subject.

Presiding Inspector: This is at the former trial and one the same general subject. [3456]

Mrs. King: "That's the only way I gave him any money.

"Then it is the general thing amongst seamen, if you need a couple of dollars to eat or sleep somewhere, you ask for it and other people ask you. It is the custom today and it has always been.

"That's the only money I have ever paid him.

"Q. Did you ever pay him any money as dues or anything of that kind?"

Mr. Del Guercio: Just a moment before that next question. I move to strike that out as being immaterial and nothing covered by the Government, not referring to any matter covered in any previous hearing in any testimony that the Government has admitted in evidence. [3457]

Mrs. King: If your Honor please, the subject of Jackson is finished in the next sentence and it seems appropriate to leave all of the Jackson information in.

Presiding Inspector: Was there any subject covered by the Government offered in relation to the payment of money?

Mr. Del Guercio: There is not.

Mr. Gladstein: In which case—in the previous hearing?

Presiding Inspector: Yes.

Mr. Gladstein: Yes.

Presiding Inspector: I mean that has been introduced here.

Mr. Gladstein: No, not that I can recall at this moment. There was in the previous case, but I don't think they read anything on it here.

Presiding Inspector: What is this particular answer to which they object?

Mr. Gladstein: Yes—certainly it was introduced. The Government read, beginning at page 2515, "Do you recall Harry Jackson?" and ending at the bottom of page 2516. And during the course of those questions and answers Mr. Bridges was asked, "Did you ever pay to Harry Jackson at any time any money?" and he said "Yes."

Presiding Inspector: I will take that statement.

Mr. Del Guercio: Just a moment. That doesn't appear in anything that we read, the question, "Did you ever pay to Harry Jackson at any time any money?" [3458]

Mrs. King: Am I right, Mr. Del Guercio, that you started to read on page 2515?

Mr. Del Guercio: On what subject is it?

Mrs. King: I don't know what subject it was, but the first sentence is, "Do you recall Harry Jackson?" and it appears on the third line of page 2515.

Mr. Del Guercio: We are at a disadvantage here. We don't have the volumes before us. We didn't know this was going to come up. We have this volume, but I don't know what page it was where we started reading.

Presiding Inspector: Haven't you a list of the matter?

Mr. Del Guercio: I have the list you have, but I have it according to subjects.

Mrs. King: It is probably listed under your subject "MWIU".

Presiding Inspector: You have everything there, according to Mr. Gaiser's statement, that has been handed to us.

Mr. Myron: I think it might facilitate matters if counsel would submit to Government counsel those matters which they wish to submit.

Presiding Inspector: I suggest that.

Mrs. King: I will be glad to do that.

Presiding Inspector: Don't you think it would expedite matters?

Mrs. King: It might very well, if there is going to be [3459] continual argument over what they did read. I assume that during the noon recess they can secure a copy of the transcript that is marked. I will be glad to give them the page numbers at this time. I don't think that the reporter would be particularly interested in them.

Presiding Inspector: Suppose you, at this time, give them, off the record, the pages and then when you come to read it you can state what the pages are.

Mrs. King: Yes, your Honor. May we have the noon recess now?

Presiding Inspector: Yes. I suggest you give them the page numbers right away.

Mrs. King: Yes; as soon as Court adjourns.

Presiding Inspector: We will recess then until 2:00 o'clock.

(Whereupon, at 12:26 P.M. a recess was taken until 2:00 P.M. of the same day.)

After Recess

2:00 O'clock P.M.

Mr. Del Guercio: I would like to make a request for the record, and that is that we be given permission to reopen the cross examination of the witness, Mr. MacMickle.

Presiding Inspector: I think he will be here undoubtedly. Mrs. King said that she would have him come over as soon as he came to counsel's office.

Mr. Del Guercio: I have another matter I would like to take up at this time.

I have a report here from Mr. R. J. Norene, addressed to I. F. Wixon, District Director, Immigration and Naturalization Service, dated May 9, 1941.

Presiding Inspector: I think we had better hold that. We may get Mr. Cannalunga back here.

Mr. Del Guercio: I think, instead of this coming to me it should have gone to you. It has reference to the efforts that have been made to locate Mr. Cannalunga.

Presiding Inspector: My secretary will take it.

(The report referred to was passed to the Presiding Inspector's Secretary.)

Presiding Inspector: That will come up later, probably. They haven't abandoned their efforts, apparently.

Mr. Del Guercio: No; no. That reports on what has been done up to this time. [3461]

Presiding Inspector: There is no objection to them seeing it?

Mr. Del Guercio: No objection; none at all. I will read it in the record, if necessary.

Mr. Myron: In so far as we have been able to check during the short noon hour recess, there is much of the testimony which Mrs. King has referred to, as testimony which she desires to be introduced in this hearing, which we would oppose, and we think that it has no reference at all to the admissions by Mr. Bridges which have been introduced in this record. Of course, we will oppose the introduction of a great deal of the testimony.

Presiding Inspector: The way to proceed is this: You state the pages you propose to read and then let them interpose their objection. I will say very frankly, Mr. Del Guercio, I am going to rule rather liberally on what is pertinent to the case. Subsequently there will be a chance to examine this witness.

Mr. Myron: Of course, in the beginning it is understood that the Government introduced this testimony as admissions by the party in a previous hearing. Such other testimony—

Presiding Inspector: Explanatory of the admissions?

Mr. Myron: That is right.

Presiding Inspector: It is offered as explanatory of the admissions. But I say that a liberal ruling is indicated, gener- [3462] ally is indicated under these circumstances, but especially so as subsequently there will be an opportunity. I have no

doubt, to interrogate the alien on these very points. So I am going to rule liberally, but, of course, there has to be some connection. [3463]

Mrs. King: Thank you, your Honor.

Presiding Inspector: So that this can be treated as explanatory of the evidence already offered by the Government as admissions.

Mrs. King: With reference to the matter that was being read just before the noon recess, there was some question raised as to the materiality. I am only hoping that Mr. Johnson isn't getting away with the stenographer's reference before luncheon.

The Reporter: I don't understand you.

Mrs. King: Don't you see? The reporter had taken part of the reading before lunch and I wanted to know where we had left off.

Presiding Inspector: Can you tell where we left off?

The Reporter: We were discussing 2515.

Mrs. King: That is correct, but you don't know to that point on 2515?

The Reporter: I can find out.

Mrs. King: Coming back to pages 2515 and 2516, which were the two pages that the Government read almost every word of, on page 2515 the question is asked, "Did you ever pay to Harry Jackson at any time any money?" and the answer was "Yes".

Now, at the point where I was reading on 2517 there was an objection by Mr. Del Guercio to my reading of a question [3464] having to do with the

payment of money. And I submit to your Honor that, in view of the fact that this very problem was involved in the quotation or admission which the Government read, there is no reason why I should not be permitted to read the explanation of Mr. Bridges with reference to the payment of this money. And I want to know whether Mr. Del Guercio is withdrawing his objection or whether it is still before your Honor at this time.

Mr. Myron: I think the objection was ruled on by the Court, your Honor.

Presiding Inspector: I said I would receive it.

Mr. Myron: I think so.

Presiding Inspector: I will adhere to that.

Mr. Myron: That is over our objection?

Presiding Inspector: Yes.

Mrs. King: I think I won't wait for Mr. Johnson. I will read from about where I was.

Presiding Inspector: Go ahead.

Mrs. King: "Q. Did you ever pay him any money or anything of that kind?"

"A. At no time."

Mr. Del Guercio: On what page are you reading from?

Mrs. King: I am reading from page 2517.

That completes the reading on page 2517 and I am now reading from pages 2580 and 2581-2, page 2581-2 being the same page and merely numbered that way to take up the page [3465] reference.

Mr. Myron: Will you state where you are going to read from?

Presiding Inspector: She hasn't found it yet. She has been referring to her memo.

Mrs. King: I am now reading from immediately after the quotation made by the Government which the Government inserted into the record from page 2580, the Government quotation having to do with a man by the name of Ross, who was the leader of the delegation that came down to strike headquarters to discuss with the strike committee the problem of the Western Worker, and immediately following the portion read by the Government I will read the following:

"Q. And how frequently have you seen him since?

"A. Not very frequently; much less than the others.

"Q. 10 times?

"A. No, I don't think that many times.

"Q. Did you ever meet him in Los Angeles?

"A. Not that I remember.

"Q. If you had, you would have remembered it in all likelihood?

"A. I believe I would. I don't recall meeting him in Los Angeles.

"Q. Have you met him as many as five times?

[3466]

"A. Oh, I think I have met him as many as five times.

"Q. Do you remember, outside of the one meeting to which you first referred there, any other occasions when you met him?

"A. No, not right now. There was no specific

happening that would fix it in my mind anyway. I don't recall—the way that I remember these things, I try to connect it up with some important happening or occasion around that time."

Mr. Myron: Now, the Government objects to any further testimony on this page being read into the record.

Mrs. King: The counsel for Mr. Bridges doesn't intend to read any further. That is the close.

I am now about to read from page 2589 and I am reading just a few lines ahead of the Government's quotation from that page.

Presiding Inspector: You mean you are reading to include a part of what is already in evidence?

Mrs. King: No, I am reading a few lines before what is already in evidence.

Presiding Inspector: Oh, I beg your pardon.

Mr. Myron: We object to any reading before the part was introduced by the Government.

Presiding Inspector: What was the subject here?

Mrs. King: The first question which was read into the record by the Government was: "Q. When did you first meet Sam [3467] Telford?

"A. 1934."

The part that I propose to read is two questions and answers before that, the first one of which reads as follows:

"Q. Do you know Sam Telford?

"A. Yes.

"Q. Was he a member of the Communist Party? A. I think he was."

Presiding Inspector: Oh, I will let that stand. I will let that be read.

Mrs. King: I am now about to read from pages 2599 through page 2604.

Mr. Del Guercio: To page 2604?

Mrs. King: That's correct.

Mr. Myron: Now, the Government objects to this as having no reference to the admissions which they introduced into the record.

Mrs. King: If your Honor please, almost immediately after this portion there was a quotation from the Government on this part that I am about to read having to do with the Marine Workers Industrial Union, which is one of the four subjects which the Government's admissions specifically had to do with.

Mr. Del Guercio: I think that the Court should first examine it.

Presiding Inspector: On that statement, of course, I will [3468] take it, but I will look at it. Where does it start?

Mrs. King: It starts here (indicating), through page 2604. I think there is a pencil mark in the margin.

(The transcript referred to was passed to the Presiding Inspector). [3469]

Mr. Del Guercio: If the Court please, I think there is some error—before you start reading that—pages 2589 to 2591. I have no reference at all to 99.

Mrs. King: No. I didn't think you did. I said you had a quotation immediately following the be-

ginning on page 2605, as I recall. I don't have the book before me at the moment.

Mr. Del Guercio: We have one on 2605, yes; 2605 to 2613.

Presiding Inspector: I don't think this last question here covers anything that we have had.

Mrs. King: You mean all of those pages, when you say the "last question?"

Presiding Inspector: The last statement, about a meeting at 121 Haight Street.

Mrs. King: I would just as leave leave that out.

Presiding Inspector: Leave that out. I will let you read the rest over your objection, Mr. Del Guercio.

Mr. Del Guercio: Over our objection.

Presiding Inspector: Yes.

Mr. Myron: Of course, this is admitted as material which refers to or explains the admissions introduced by the Government?

Presiding Inspector: Yes.

Mrs. King: Reading from pages 2599 and through part of page 2604:

"Q. Was that your attitude, you didn't want to have [3470] anything to do with them in 1932 and 1933?

"A. We didn't look at it that way. They were advocating joining the Marine Workers Industrial Union and I was opposed to it.

"Q. The Communist Party was?

"A. I wouldn't say the Communist Party. I think I can differentiate it.

"Q. Who was advocating it?

"A. There would be two types of speakers: The Communist Party used to come down there and speak on general issues, political issues. They would speak on conditions nationally, conditions, matters of international questions.

"Q. Who, for instance, would do that?

"A. Jim Branch, generally, the speaker that was down there most. He was very well liked by all the men on the waterfront.

"Q. Anybody else?

"A. Darcy occasionally spoke down there.

"Q. Did they make any impression?

"A. Well, I don't recall much about Darcy.

"Q. Any of them?

"A. I didn't find it out until after he had spoken down there.

"Branch, I definitely recall, because he was an eloquent speaker and he made a distinct impression on the men and on me. [3471]

"Q. How upon you?

"A. Well, he is a very presentable looking person and was a very able speaker.

"Q. Did he have persuasive arguments?

"A. Very persuasive.

"Q. Was he advocating joining the Communist Party? — A. He was.

"Q. Did those arguments appeal to you in the slightest?

"A. In joining the Communist Party?

"Q. Yes. A. No.

"Q. You said he had persuasive arguments. Persuasive arguments on what? He didn't per-

suade you to join the Communist Party and you say he had persuasive arguments. He must have had persuasive arguments on something.

"A. He had—after all, the way the arguments would be put, any man would come down to the waterfront in 1931 or 1932, when \$10 a week was a big wage, and talked in favor of improving that wage, in favor of reducing the speed-up, who talked against the blacklist and whatnot, had the approval or the sympathy of the men anyway. That is only logical.

"When they got beyond that point and said to the men, 'The way to correct this is to join the Communist Party,' to my best knowledge they didn't get many takers. I don't remember any mass movement. [3472]

"Q. You said he had persuasive arguments only in so far as you saw it. In what respect were his arguments persuasive?

"A. They were persuasive enough. If he had had a logical plan there to present, other than joining the Communist Party, to increase our wages, to do away with many of the things that were very bad on the waterfront, that was one thing. But when it came to how it should be done, his arguments, the program being to join the Communist Party, and it might help to do away with those conditions, that was too far-fetched for the men at that time and they didn't pay much attention to that point.

"Q. Did you ever hear him advocate force or violence, the use of it?

"A. Never. The only force used was when the policeman came along and threw him in the wagon.

"Q. That was the same James Branch to whom reference has been made as having been deported?

"A. I believe so; yes.

"Q. How often did he come there to speak?

"A. Once or twice a week. I can distinctly recall Branch. Others came down, but I cannot definitely place who they were. I can distinctly recall Branch because he was a very able speaker.

"Q. How often did Sam Darcy come down there?

"A. I don't know. As a matter of fact, I don't recall Darcy coming down there until later on. Later I talked to him [3473] and he said, 'Don't you remember me? I used to come down to the waterfront a couple of years ago and speak.'

"I said 'No. I don't remember it.'

"Q. Did he have any persuasive arguments?

"A. I wouldn't know.

"Q. Do you recall anything in particular that James Branch said about that time that appealed to you particularly?

"A. Yes. One of the things that he said—naturally, a lot of his talk was directed along the line of improving the conditions of the waterfront, on the ships and for the workers generally.

"Another argument was definitely an anti-war argument.

"Other arguments were definitely directed against the state and city politics generally.

"Q. Was he against war under any conditions? What do you mean by 'anti-war'?

"A. I can't specifically recall, but he made statements such as this—I think at that time there was a Japanese invasion looming up, or something like that, the first invasion of China, and that was a subject for discussion one day. It was somewhat a little closer to the waterfront because work on the waterfront is affected by those things. There was a statement made in that connection that it wasn't going to do the Chinese much good the way the Japanese were beginning to move in there.

[3474]

"A statement was made regarding the last war that what the men on the waterfront, the workers there, got out of the last war was very little.

"There were statements such as that.

"Q. Did you ever hear him say anything like 'Turn war into civil war?' A. No.

"Q. Did you ever hear him make such statements?

"A. Not at those times. He might have, but not that I know of.

"Q. Did he ever in your presence say anything like that outside of those speeches on the waterfront? A. No."

Mrs. King: That is as far as I intended to read. The other statement went beyond the end of my proposal.

Presiding Inspector: Yes. I understand that.

Mrs. King: On page 2608 there is a single line between two questions, quotations by the Government. The last sentence which is quoted from the testimony of the witness is as follows:

"The Witness: Never. He knew nothing about Unions until we got him in our group and started to teach him something."

Presiding Inspector: Who are you talking about?

Mr. Del Guercio: We object to the introduction of that.

Presiding Inspector: She is reading what you have introduced. [3475]

Mr. Del Guercio: No. I didn't understand that.

Mrs. King: This is the part that you read and I am simply adding this statement of the witness, who is talking about a longshoreman by the name of Detrich.

Presiding Inspector: Detrich?

Mrs. King: Yes.

"The Witness: He didn't know the difference between the two types of unions."

Presiding Inspector: That is the part you want to read?

Mrs. King: Yes; that is all.

Presiding Inspector: I don't see any objection to that, although it is received over your objection, Mr. Del Guercio.

Mr. Del Guercio: Yes; over our objection.

Presiding Inspector: I don't see any reason why it shouldn't be received. I will receive it.

Mrs. King: The Government read into the record from pages 2617 to a little beyond the third of the way down—

Presiding Inspector: Just a moment. Did you want to say something, Mr. Del Guercio?

Mr. Del Guercio: I understand that the Doctor is here.

Presiding Inspector: Let him come in and sit down.

Mrs. King: (Continuing) — through a little beyond one third of the way down on page 2628, which was read by the Government.

I am now seeking to read from just beyond the Government's [3476] quotation on page 2628 through a marked portion on page 2634, which is a little beyond the middle of the page.

I believe that your Honor will find that it is a saving of time if I was permitted to read, rather than to present it to you in each event to determine in advance whether it can be read. [3477]

Mr. Myron: I think your Honor should read it to determine whether or not it is admissible here. We object to the part upon the grounds that it has no reference at all to the admissions which were introduced by the Government.

Presiding Inspector: What is the subject of admission?

Mrs. King: The subject of the admission is some discussion of the M.W.I.U., and the first question in the portion that I intend to read was where the Government says that they could not believe that Mr. Bridges meant entirely what he said, and they give him an opportunity to explain his exact meaning. So that you are dealing with precisely the same subject that the Government—

Presiding Inspector: (Interposing) Is that about the substance of it? I will take it.

Mr. Myron: Except, your Honor, that you not having read it will not be able to determine whether or not it does have reference to the M.W.I.U. We contend that it doesn't.

Presiding Inspector: You contend that it doesn't have any reference to the M.W.I.U.?

Mr. Myron: That it doesn't have any reference to the M.W.I.U.

Presiding Inspector: I am afraid I will have to read it.

Mrs. King: The discussion was why they co-operated with the M.W.I.U. and the explanation is quite clear.

(The transcript referred to was passed to the Presiding [3478] Inspector.)

Presiding Inspector: I will take it.

Mrs. King: Thank you, your Honor.

Mr. Myron: We contend that this line of inquiry—

Presiding Inspector: (Interposing) I should think that you would rather like this testimony.

Mr. Myron: It is all right with us except that it is not admissible as an admission.

Presiding Inspector: It is admissible under a broad ruling.

Mr. Del Gaudio: A broad interpretation of the ruling?

Presiding Inspector: Yes, a broad interpretation of the ruling. I am not holding them down very strictly or strictly at all, if I can see any connective matter. This deals with an interesting subject.

Mrs. King: "Q. That is the reason I want you to clarify.

"A. That's right. The primary purpose and the primary objective at that time was to win our strike. All the discussions of the strike, there was no discussion about overthrowing the Government or anything else. We were talking hours, wages, hiring halls and what-not. When I advocated the men to join that Union, lots of them said, 'Well, how about this'?

"It has always been our position that when you talk up a Union we don't talk about charters. It is not so much a [3479] question of many other things. Those things are not as much substance as the people in the Union and what policies are followed. So my answer then when they brought those things up; I said, 'I don't agree with those things, either, but the way to change it is to get in there! Call a meeting and vote to amend the darned thing, and then you have got it, and then make any kind of a constitution you want. But don't make that an objection to joining the Union.'

"We have never done that. You will never organize a group of workers that way. We used the same argument with the group of CIO. For a long time many workers raised the objection 'I can't join the CIO because it has no constitution.'

"Well, for approximately 25 years this country functioned without a constitution, and that was no argument to raise to refuse to join a Union. It was just an excuse, in other words.

"When we had asked those workers to go into

that Union, it was the expedient thing to do at that time for the purpose of winning our point.

“Q. Would you people take a man into the Union who for instance, believed in the overthrow of the Government of these United States by force and violence?

“A. There is nothing in our constitution to discriminate against any person regardless of what their political beliefs are.

“Q. Would you yourself, for instance, knowingly vote to [3480] take such a man in a Union who believed in the overthrow of the Government by force and violence?

“A. I would have to follow the constitution in my voting. If the constitution could be construed that the advocacy of the overthrow of the Government by force and violence or in any other way was a certain political belief, it would be improper and illegal to hold that against a person. I would have to vote in accordance with that constitution.

“Q. Wouldn't the Union be concerned with it?

“A. They possibly would, I don't know. The issue has never come up. A man comes up before our Union. They want to know, 'Have you ever been a strike breaker? Have you ever been a stool pigeon? Have you ever been on the police force?' and a few other things like that. If he has been a good Union man and hasn't done any of those things, he is allowed into the Union so long as he is a worker.

“Q. Suppose he is not a good man morally, would they let him in?

"A. That has nothing to do with the Union.

"Q. That has nothing to do with the Union?

"A. A good man morally? I am afraid if we started through the trade Unions in this country and began to discriminate because of morals, we would kind of disrupt a few [3481] Unions.

"Q. I am just trying to find out, that is all.

"A. I know.

"Q. Then do I take it—

"A. I can get a copy of the Union Constitution. I have it here, even the old A. F. of L. Constitution.

"Q. I believe defense counsel will put it in. He can put it in and make it a part of the record, if he wants. Then, as I take it from your testimony, a member of the Communist Party, if he came in to join your Union, and if he definitely believed in the overthrow of the Government of the United States by force and violence, you would not be interested because it is not a part of the tenets of the Union, and the Union is not concerned with it; is that correct?

"A. You would be interested in what his political beliefs were if and when he tried to advocate them in the Union; but, as far as his being a member of the Union, if you tried to get up and say 'This man can't join the Union because he is a Communist,' you would be ruled out of order and that could not be used against him in joining the Union. That is correct.

"Q. Suppose that he were already in the Union?

"A. All right.

"Q. And there were such a man as to which

I have just referred, a man who believed in the overthrow of the Government of the United States by force and violence; would the Union [3482] be concerned with that?

"A. He would be allowed to get up on the floor and state any view he felt or any view in which he believed. The only rule we have in our Union is, regardless of what your beliefs or opinions are, you will be allowed to state, on the floor of the meetings, and then you sit down and everybody else states theirs. Generally speaking, he would state his, and 99 per cent of the rest of the membership would get up and state the opposite, from what I have seen of the Union.

"Q. Then the whole paramount consideration from your viewpoint in the Unions is just this: That a man has a right to any belief he desires in regard to anything, whether it be the overthrow of the Government of the United States by force and violence or not, provided it does not conflict with his Union obligations?

"A. Or the Constitution of the country. There is a court ruling where we have to investigate because of these certain legal rules where no Union constitution can conflict with the Constitution of the United States.

"Q. I am talking particularly about the Union. I am not talking about the laws of the Government or Constitution of the United States. I am talking about the Union on a proposition of that kind, where a man believed in the overthrow of the Government of the United States by force and violence:

"A. The attitude of the Union is controlled by its Constitution and bill of rights. After all, every Union is, in effect, a small government. They are all closely patterned after the Bill of Rights and Constitution. Any man is allowed in the Union whose views do not conflict with the Union Constitution or the Union Bill of Rights. I believe under the Constitution of the United States the right of free speech is guaranteed, and we follow it and guarantee it. We follow the policy. We mightn't like what they say but we will fight to the end their right to say it.

"Q. Do you believe the right of free speech extends to the right of license as distinguished from the right of liberty?

"A. No, I don't. We are taken out to a pretty farfetched point here. I don't think anybody would dare get up in our Unions to advocate the overthrow of the Government by force and violence. They would throw them out on their ear.

"Q. Suppose he did that outside of the union and the union knew that he had done so, what would be their attitude?

"A. What could the union do?

"Q. I am not answering you. I want you to answer my question.

"A. I didn't mean it that way, Mr. Shoemaker. I am just wondering about the question. Suppose the Union found somebody [3484] advocating the overthrow of the Government by force and violence—

"Q. Or in any other wise:

"A. I would say, if there was an organization of

any kind, or even individuals. I think the union would try to take some action. At least they would pass resolutions. They might notify somebody or they would try to take some action. That has been my experience. I would advocate it anyway."

At this place, if your Honor please, it occurs to me that there is no particular reason why Dr. MacMickle should sit by and listen to the loud reading. We might interrupt it to allow him to take the stand.

Presiding Inspector: Very well. Take the witness stand.

VIRGIL MacMICKLE

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Further Recross Examination

By Mr. Del Guercio:

Q. Does the witness understand that he is still under oath?

Presiding Inspector: Yes. He continues with the examination. He is still under oath.

A. All right.

By Mr. Del Guercio:

Q. Mr. MacMickle, I want to review your previous testi- [3485] mony on a particular subject very briefly. I believe you testified that you attended the American College of Drugless Physicians in the City of Chicago for about three years, from 1910 to 1913; is that correct?

(Testimony of Virgil MacMickle.)

A. That is incorrect.

Q. What is the correct thing?

A. I told you definitely that I went there, I thought, in the fall of 1911 and graduated in December of 1912 or January of 1913. I don't know just when the graduation exercise was.

Q. And for how many years did you attend that college?

A. That would be a 12-months course.

Q. A 12-months course?

A. Yes, because I was away for three months during the summer.

Q. Now did you ever attend the American College of Naturopathy in New York?

A. Yes, I did.

Q. For how long a period?

A. Well, I don't remember the exact length of the period. I know it was a brief course. It was only concerned with two or three subjects.

Q. And how long would you say? I believe you previously testified that you might have attended for about six months at the most. Is that correct?

A. Well, it wasn't longer than that. I know that, and [3486] I doubt if it was that long.

Q. And was that under Dr. Lust?

A. Yes.

Q. Was he running that school at that time?

A. Yes. Dr. Benedict Lust was running the school.

Q. Did you ever attend the Bernarr MacEadden School of Physical Education in Chicago?

(Testimony of Virgil MacMickle.)

A. That was run in conjunction with the American College of Drugless Physicians.

Q. Did you ever attend the Bernarr MacFadden School of Physical Education in Chicago?

A. Yes. I will tell you what happened.

Q. Well now, what is your answer to that question? "Yes" or "No"?

A. Yes.

Q. Uh-huh.

Presiding Inspector: He wants to explain.

A. Here's what happened.

Q. Yes.

A. They were running their course then in the basic subjects for both physical trainers for educational institutions, coaches and that sort of thing, and the same basic subjects of anatomy and physiology and so on for those who wanted to become doctors; and then after, I think it was, three months or maybe it was six months, you had your right to make your preference as to which way you were going and, of course, I [3487] determined on being a doctor and that's the way the thing was.

Q. Then you did attend the Bernarr MacFadden School of Physical Education?

A. Yes. It was the—I think that was called the American College of Physical Education, if I am not mistaken. It was owned by Bernarr MacFadden, that's true.

Presiding Inspector: He answers in the affirmative, that he attended it.

(Testimony of Virgil MacMickle.)

By Mr. Del Guercio:

Q. Did it occupy the same building space?

A. It occupied part of the building, yes.

Q. How much of the building?

A. Oh, I don't know because they had classrooms in common. As I say, for the first few months—

Q. (Interposing) Well now; as a matter of fact, Mr. MacMickle, it was only the Bernarr MacFadden School of Physical Education that had any rooms in that building?

A. No, you are wrong about that, absolutely.

Q. Isn't that the fact?

A. I know what I am talking about and I am definite and positive about it.

Q. All right. Let's see if you do. You applied for a license to practice naturopathy on August 27, 1927 in the State of Oregon, didn't you?

A. I applied for what? [3488]

Q. To practice naturopathy?

A. Oh, yes, yes.

Q. You filled out the application?

A. Yes.

Q. As required under the laws of the State of Oregon?

A. I believe I did.

Q. Do you know what you stated in that application?

A. No, I don't remember at the present time.

(Testimony of Virgil MacMickle.)

Q. Did you state that you were born July 21, 1891 at Stanhope, New Jersey? A. Yes.

Q. Was that correct? A. That is correct.

Q. Did you state that you attended the American College of Naturopathy for a period of four years?

A. I don't recall stating it.

Q. You don't recall stating it? A. No.

Q. And if it does so state would that be a true statement?

Mr. Grossman: Just a moment—if what does so state, the application?

Mr. Del Guercio: The application for a license which the witness says he has made out.

Look at me.

The Witness: Yes, I am looking at you.

A. No, I don't remember having made any such claims.

By Mr. Del Guercio:

Q. And if the application so states would you say that you did make such a claim?

A. If the application so states, I must have made such a claim; yes, sir.

Q. Did you state in that same application that you attended the Bernarr MacFadden School of Physical Education in [3490] Chicago for a period of some four years?

A. No—well, if I did I don't remember it.

Q. If the application for the license does so state would you say that you did state that you attended that school for a period of four years?

(Testimony of Virgil MacMickle.)

A. If I stated it in the application it is there, yes.

Q. Is that statement true?

A. No, that isn't a true statement.

Q. That is a falsehood, isn't it?

Presiding Inspector: He said so. We don't need it emphasized.

By Mr. Del Guercio:

Q. Now, at the time that—did you make any mention in that application for a license to practice naturopathy in the State of Oregon that you had ever attended the American College of Drugless Physicians?

A. Well, I don't know that I stated it that way. That is what my diploma reads.

Q. Did you so state in your application for a license?

A. Not to my recollection.

Q. Well, now, Mr. MacMickle, as a matter of fact you never did attend the American College of Drugless Physicians, did you.

A. That is precisely what my diploma says and I have agreed to submit it to you and shall do so.

Q. Who issued this diploma, Mr. MacMickle?

[3491]

A. That was, as I say, that was signed by Dr. Speicher and, I think, Dr. Crane.

Q. With what college were they connected?

A. With the American College of Drugless Physicians.

Q. And is that the only diploma you have?

A. That is the only diploma I have from them.

(Testimony of Virgil MacMickle.)

Q. You don't have a diploma, do you, from the American School of Naturopathy?

A. You mean the Lust School, the one in New York City?

Q. Yes.

A. Yes, I have a diploma from that.

Q. This is the first time you have mentioned that, isn't it?

A. No, that isn't. I told you it was a post graduate *thin*

Q. Post graduate course? A. Yes.

Q. Are you sure that that diploma doesn't say that you attended that school for, let us say, a period of over six months?

A. Well, if it so states I think it was in error.

Q. You think it was in error? A. Yes.

Q. Will you submit that diploma also to this Court?

A. If I still have it I will be glad to.

Q. Do you have it? [3492]

A. I am not sure.

Mrs. King: If your Honor please, this has all been gone over.

Mr. Del Guercio: No, it hasn't.

Presiding Inspector: Not quite. Evidently this is on a little different basis. I will be liberal to the government in this case, in this instance.

By Mr. Del Guercio:

Q. You were on the Board of Naturopathic Examiners at the time you submitted your application?

A. Yes, sir.

(Testimony of Virgil MacMickle.)

Q. Were you not? A. I was.

Q. You passed upon your own application, didn't you, with the other members?

A. Right.

Q. Did you approve your application?

A. I presume I must have.

Q. Were the statements made in this application verified?

A. Well, I don't know that they were any more than the usual taking it for granted.

Q. You made it under oath, didn't you?

A. No, I don't think I made it under oath.

Q. You didn't make that application for a license under oath? [3493]

A. No.

Q. Now, did the diploma, you say—I don't know whether I misunderstood you—did you say you were issued a diploma by Mr Lust? A. Yes.

Q. And that was from the American School of Naturopathy, is that right?

A. Yes, that is right.

Q. Now, that is Benediet Lust, isn't it?

A. Yes.

Q. That is the same Lust who, in April of 1912, was convicted in the Court of Special Sessions in New York for practicing medicine without a license and fined \$1000, isn't that correct?

Mr. Grossman: I object to that question as obviously trying to prejudice the case and as having no possible relevancy and as incompetent, irrelevant and immaterial.

(Testimony of Virgil MacMickle.)

Presiding Inspector: Was this after that date?

The Witness: Yes; long after that.

Presiding Inspector: You can ask him if he knows that because he has testified that he had this certificate, as I remember it, from a physician. If his license had been rejected, it might bear somewhat on his qualifications. It is a little hard to see, perhaps, but I think I will take it.

If he knows—have you ever heard of this? [3494]

The Witness: No, I never did.

By Mr. Del Guercio:

Q. You never heard of it? A. No.

Q. Have you heard that this so-called Dr. Lust had issued hundreds, if not thousands, of diplomas?

Mr. Grossman: It is quite obvious that this question is subject to the same objection I made previously, and that is it is obviously to prejudice the case and couldn't have any possible effect or purpose except for Mr. Del Guercio to attempt to testify through the question.

Presiding Inspector: He said he didn't know anything about it.

Mr. Del Guercio: I submit, if the Court please—

Presiding Inspector: I will allow you to ask whether he knows of anything of that sort.

Mr. Del Guercio: That is what I am asking.

Presiding Inspector: That wasn't exactly the question. If he knows of anything of this kind that you now ask him about it doesn't make it a fact at all.

Mr. Del Guercio: No. Your Honor, let us get

(Testimony of Virgil MacMickle.)

this—this witness here says, has made certain contradictory statements, as it is apparent. I believe I am safe in saying that. Now, we have got to have some latitude here in cross examination. [3495]

Presiding Inspector: I am giving you a great deal of latitude and I am going to continue to give you latitude. You may ask him whether he knows about him having issued what you call fake diplomas.

Mr. Del Guercio: Fake diplomas.

Presiding Inspector: If he knows anything about that.

By Mr. Del Guercio:

Q. Have you ever heard he issued fake diplomas?

A. No.

Q. Was the diploma that you received from him a fake one?

A. No, it was not a fake diploma.

Mr. Del Guercio: Now, if the Court please, in view of this witness' contradictory statements under oath I request that he be kept here until tomorrow morning.

We have under subpoena his application for a license under the State of Oregon and we hope to have it here by tomorrow morning. We want to confront this witness with what he said in that statement.

Presiding Inspector: All right.

Mr. Del Guercio: And in his own handwriting.

Presiding Inspector: I think he had better stay.

Mrs. King: The attorneys for Mr. Bridges do not

(Testimony of Virgil MacMickle.)

object to his remaining, but we see no occasion for the statement that he has made contradictory statements under oath. There is nothing in the record to support that. [3496]

Mr. Del Guercio: The record speaks for itself.

Mrs. King: Then we had better take the record and let it continue to speak for itself, instead of having the Attorney for the Government speak for it.

Presiding Inspector: Those statements aren't evidence when made, and they won't be considered as evidence, whoever makes them, whether Government counsel or whether it is counsel for the Alien. We are going to have this case presented on the evidence and on the record.

Mrs. King: Thank you.

Presiding Inspector: You need not worry about that. Is that all?

Mr. Del Guercio: I have one more question, if your Honor please. This may sound repetitious, but the Court may pass upon it before the witness answers.

By Mr. Del Guercio:

Q. Would you say under oath that you received a diploma from the American College of Drugless Physicians as a result of attending courses and classes at such an institution?

Mrs. King: If your Honor please—

Presiding Inspector: He already answered that.

Mrs. King: There is an implication in the question that he has not answered it truthfully. I object to it further on that ground.

(Testimony of Virgil MacMickle.)

Presiding Inspector: I will sustain the objection on the [3499] ground that it has been fully covered.

Mr. Del Guercio: Well, not in that wise. I don't know whether you know what I have in mind or not.

Presiding Inspector: I don't want to know. He has repeatedly said that he attended that institution for a twelve months' course.

By Mr. Del Guercio:

Q. Is that correct?

A. That is correct.

Presiding Inspector: That at the end of this period, after having taken certain studies which he has testified respecting, he received a diploma.

Isn't that right? The Witness: Yes.

Presiding Inspector: Is that your testimony?

The Witness: That is my testimony.

Presiding Inspector: That covers it. That is as I understood it.

The Witness: Yes.

Mr. Del Guercio: That is all until tomorrow morning, if your Honor please.

Presiding Inspector: All right. Until tomorrow morning at ten o'clock.

(Witness temporarily excused.)

Presiding Inspector: Now, Mrs. King, go on with the [3500] reading.

Mrs. King: If your Honor please, I believe we have another witness now ready to testify and Mr. Grossman is going to investigate that problem. So I may not finish the reading this afternoon.

But I should like at this time to read pages 3100,

beginning with the first question on that page, through the last answer on page 3104.

Presiding Inspector: Can you state what that is, in a general way, to help the ruling?

Mrs. King: There is no objection.

Mr. Myron: We haven't referred to it yet.

Presiding Inspector: I don't think counsel has had an opportunity to look at it. We cannot cut off the opportunity for them to examine the record.

Mrs. King: This deals with the comparison of the constitution—

Mr. Del Guercio: (Interposing) May we have a recess?

Presiding Inspector: We will finish this first.

Mrs. King: This deals with a comparison of the constitution of the Marine Workers Industrial Union, concerning which Mr. Bridges was asked at the last hearing; a comparison of that constitution and the constitution of the American Federation of Labor, and it was specifically introduced, in this testimony, in order to meet the problem of the meaning of [3501] this constitution of the Marine Workers Industrial Union.

Presiding Inspector: Before you start on this we will take a short recess.

(Whereupon a short recess was taken.)

[3502]

Presiding Inspector: Now, Mrs. King, do you want to interrupt the reading?

Mrs. King: Yes, if you don't mind, your Honor. I should prefer to have a witness.

Presiding Inspector: Call your witness.

Mrs. King: The witness is right here.

ROBERT M. MacGREGOR

called as a witness on behalf of the Alien, being first duly sworn, testified as follows:

Presiding Inspector: Give your name and address.

The Witness: Robert M. MacGregor: 7325 Southeast 29th, Portland.

Presiding Inspector: Now, Mrs. King, Mr. MacGregor sits at the head of the table. Go ahead.

Direct Examination

By Mr. Grossman:

Q. What is your occupation, Mr. MacGregor?

A. I am an instructor in literature at Reed College, Portland.

Q. How long have you held that position?

A. Three academic years. At the close of this June it will be three academic years.

Q. Do you consider that you have any other occupation outside of that of teacher?

Mr. Del Guercio: I object to that form of the question [3503] "Do you consider?". Does he have any other occupation?

Presiding Inspector: That is his manner of speech.

Mr. Grossman: I think that is an appropriate question considering the answer that I expect, your Honor.

Presiding Inspector: Go ahead.

A. Yes. I have been a journalist; I have been a correspondent, newspaperman, and I still do a certain amount of that.

(Testimony of Robert M. MacGregor.)

By Mr. Grossman:

Q. And you expect to return to that other field, do you? A. Yes, I do.

Q. Mr. MacGregor, are you personally acquainted with a man named Robert Wilmot?

A. As far as I know I have never met him. I may possibly have.

Q. Have you ever had occasion to discuss with anyone in the City of Portland the reputation or character of Mr. Wilmot for truth and veracity?

Mr. Myron: I object to that, your Honor.

Presiding Inspector: I will take it.

Mr. Del Guercio: If your Honor please, on this ground: The witness has just testified that he has never met Robert Wilmot.

Presiding Inspector: I know.

Mr. Del Guercio: Not knowing Robert Wilmot, never having [3504] met him, how could he testify?

Presiding Inspector: It is what he has heard from the mouths of the people.

Mr. Del Guercio: Is there only one Robert Wilmot?

Presiding Inspector: Well, I suppose they will identify him.

Mr. Del Guercio: Shouldn't that be done first?

Presiding Inspector: The similarity of names is prima facie.

Mr. Grossman: That is correct. I will satisfy Mr. Del Guercio, though.

By Mr. Grossman:

Q. Is it the same Robert Wilmot who was con-

(Testimony of Robert M. MacGregor.)

needed with the Labor New Dealer at one time?

A. Yes.

Q. Now, will you explain what was the first occasion which enabled you to find out what was the reputation of Robert Wilmot for truth and veracity?

Mr. Myron: I object to this.

Presiding Inspector: Sustained. Leave it for cross examination.

By Mr. Grossman:

Q. How did the subject of Robert Wilmot's character or reputation for truth and veracity come up in your discussions?

Mr. Myron: I object to that, your Honor, as not a proper question. [3505]

Mr. Grossman: Your Honor, I have a right to show that he was in a position to know and how he came about—

Presiding Inspector: Yes. I am going to let you show that in a very general way in what group of people he has heard this discussed.

Mr. Grossman: All right. I will ask the question in that way.

Presiding Inspector: Approach it that way.

By Mr. Grossman:

Q. Could you describe generally what group it was or what groups they were in which this question of Robert Wilmot's reputation for truth and veracity was or were discussed?

Presiding Inspector: To your knowledge.

(Testimony of Robert M. MacGregor.)

A. Well, when I first came to Portland I was part time at Reed College and I was looking around for various subjects for articles for national magazines and one of those I was investigating was the Portland Red Squad.

Presiding Inspector: You see, Mr. MacGregor,——

The Witness (Interposing): I am sorry.

Presiding Inspector (Continuing): ——We don't want the specific instances, but we want to know in what group you have heard his reputation discussed. That is, among the professors, among the students, among the newspaper men.

Mr. Grossman: I am afraid, you Honor, that——

Presiding Inspector (Interposing): Longshoremen, among [3506] the Police.

Mr. Grossman: I am afraid Mr. MacGregor understands the question all right, but knowing the story I know that they are not such a class of people that he can describe the class that easily: I am sure that that is why he is giving as much detail as he is.

Presiding Inspector: Let him first try to describe the group.

The Witness: Well, I would like to say that——

Presiding Inspector (Interposing): Of course, he may say that wherever his name is mentioned he heard it discussed. I don't know.

The Witness: That's practically it.

Presiding Inspector: I didn't mean to offer that as testimony.

(Testimony of Robert M. MacGregor.)

Mr. Del Guercio: I move that that be stricken.

Presiding Inspector: I am afraid, Mr. MacGregor, that will hardly do.

The Witness: It was among lawyers and newspaper men, from the wife of the Director of the Art Museum in Portland and from people connected with the Spanish Committee who had known him, and so on down the line; various people who had worked with Wilmot at various times or known him.

By Mr. Grossman:

Q. From the discussions that you have had with these [3507] people that you have named concerning the character of Robert Wilmot do you know his general reputation for truth and veracity?

Mr. Del Guercio: I will object to that. There is no evidence here that these other people, and he hasn't named them, generally do not even know Mr. Wilmot.

Presiding Inspector: I will take it. I will take it. Leave it for cross examination.

A. Well, the general impression, I can't speak—

By Mr. Grossman:

Q. (Interposing): First state whether or not you know his general reputation. A. Yes.

Q. Will you state whether that general reputation for truth and veracity is good or bad?

Mr. Del Guercio: I object to that, your Honor, as no foundation.

(Testimony of Robert M. MacGregor.)

Presiding Inspector: I will take it.

A. I would say it was bad.

By Mr. Grossman:

Q. From what you have heard about the general reputation of Robert Wilmot for truth and veracity would you believe him under oath?

A. I doubt it.

Q. Now, could you describe for us what periods of time covered by your various conversations with other people, concerning the character of Robert Wilmot for truth and veracity?

Mr. Del Guercio: Your Honor, I object to that. That should have been a preliminary question.

Presiding Inspector: I will allow it now. Probably it should have been, but I will allow it now to fill in any possible space.

By Mr. Grossman:

Q. When was the first and when was the last that you spoke to anyone on the subject?

A. It is very hard to give exact dates, but it was in the fall of '38, I would say around November, possibly October, and I have heard about him variously, although I would like to say that the data seems all to have been based on about the same period, oh, up until three or four months ago certainly. I have also heard more about him since he appeared here, but that's another matter.

Mr. Grossman: You may cross examine.

Presiding Inspector: Now Mr. Del Guercio.

Mr. Del Guercio: Mr. Myron will take the witness.

(Testimony of Robert M. MacGregor.)

Cross Examination

By Mr. Myron:

Q. You say you live at 723 Southeast 29th?

A. No. 7325.

Q. 7325? A. That's right. [3509]

Q. How long have you lived there?

A. Since September, 1940. Let's see; anyway, this is the second year of the lease.

Q. And where did you live before that?

A. I lived, oh, for two months I lived up at the corner of Southeast Reedway and, I think, 41st Street in an apartment. And before that I lived—

Q. (Interposing): When was that?

A. That was May and June of—it must have been nineteen—these dates are difficult—nineteen thirty nine. Is that right? Yes.

Q. May and June, 1939?

A. I hope that's right. I think so. If I came—yes, '39.

Q. From May and June of 1939? A. Yes.

Q. To September, 1940, where did you live?

A. Well, in saying "1940" it is a little difficult to get all these.

Q. You mean May and June of 1940?

A. I must have moved into the present house September, 1939, then. That's right.

Q. You have lived there since September of 1939; that is, your present address?

A. That would be right, yes.

Q. Is that right? [3510] A. Yes.

(Testimony of Robert M. MacGregor.)

Q. Prior to September of 1939 you say you lived two months at some other place?

A. That was during the summer of—you see, we have a long vacation teaching. I was part of the time in Santa Monica and then I lived with another person connected with Reed in the house of a third faculty member who was away, and that was out on—I would have to give you the address. I can tell you the name of the person whose house it is.

Q. That is not necessary if you give us the address.

A. I can't remember the address off-hand.

Q. Well, with whom did you live?

A. With Larry Rogers.

Q. Larry Rogers?

A. Yes, who was the Comptroller of Reed College.

Q. Of what?

A. Comptroller of Reed College; financial.

Q. And how long did you live there?

A. Oh, I would say from the middle of July until the end of August.

Q. Is that on the campus of the college?

A. Oh, no.

Q. Or connected with the college?

A. Oh, no. It is about three miles from the college; two or three miles from the college. [3511]

Q. And where did you live before that?

A. Before that I lived in the house of William Brewster overlooking the Waverly Country Club.

(Testimony of Robert M. MacGregor.)

Q. Who is William Brewster?

A. Well, he is a Portland lawyer, an elderly man.

Q. You mean you boarded there?

A. No. He and his wife—either he or his wife were not feeling very well and they were living in town in a small apartment hotel and we rented the house during all that winter until the middle of April or the first of May when they came back to the—

Q. (Interposing): You lived there while he was away, is that it?

A. He was living in town, the center of town. This is quite a ways out. It is a sort of country house.

Q. Are you married? A. Yes.

Q. Does your wife live there with you?

A. Yes.

Q. Now, prior to that time where did you live?

A. Prior to that time I lived for about five months in Winchester Center, Connecticut, on a farm. [3512]

Q. During what months and what year did you live there?

A. That must have been in 1938, from about January until the end of August, when we came west.

Q. How old are you? A. 29.

Q. 29? A. Yes.

Q. Where did you go to school?

A. Harvard.

Q. Harvard? A. Yes.

(Testimony of Robert M. MacGregor.)

Q. When did you get through? A. 1933.

Q. And then you came directly out here to the coast—you came directly out here?

A. No, I didn't come out here until 1938. I thought I made that clear.

Q. When did you apply for this position with the College?

A. Mainly by mail. My wife and I had gone up to Bennington to see if we could get a place teaching there. That is a girls' college in Vermont. There was no opening there, so it was suggested that we go to the Progressive Educational Association, which was a Rockefeller organization, supported organization, in New York, and there we talked over [3513] most of the progressive colleges in the country, and they recommended Reed and that was among others that we made applications to at that time.

Q. You say you were a journalist?

A. Yes.

Q. Where?

A. I worked for the United Press in Pekin?

Q. Where?

Presiding Inspector: Pekin, in China. It has another name now, but we know what it is.

By Mr. Myron:

Q. When was that?

A. That was in the summer and fall of 1937.

Q. Just before you were appointed as instructor at the college?

A. No. I came back to this country and, as

(Testimony of Robert M. MacGregor.)

I say, I lived on a farm in Connecticut, at Winchester Center, for a while.

Q. Were you correspondent for any other newspaper?

A. I was correspondent for the United Press.

Q. That was the same position, is that what you have reference to? A. That is right.

Q. When did you, on what date did you return from China?

A. I got back just before Christmas in 1937, at the end [3514] of 1937.

Q. You never met Robert Wilmot?

A. No.

Q. You wouldn't know him if you saw him?

A. No. I say that—I don't think I have met him. I have seen his picture in the paper in connection with this case and I certainly didn't recognize him.

Q. How many people have you talked with concerning Robert Wilmot?

A. Oh, I would say nine or ten at least.

Q. About nine or ten?

A. At least; yes.

Q. Would you say it would be more than nine or ten? A. It might well be; yes.

Q. Well, how many?

A. I might explain—

Q. (Interposing): No, I want the approximate number.

A. (Continuing): —that Mr. Wilmot meant

(Testimony of Robert M. MacGregor.)

nothing in my life until I was asked to come down here.

Q. I am just asking you now the approximate number of people that you have talked to concerning Wilmot.

Presiding Inspector: Answer the best you can.

A. I would say, well, make it a little more; possibly twelve. That is approximately.

By Mr. Myron:

Q. That is approximately? [3515]

A. That is approximately.

Q. And were those twelve people scattered around various places? A. They were.

Q. And various types of people?

A. Various types.

Q. Now, in talking to those ten or twelve people I assume—let me ask you if the matter of his reputation in the community was discussed with all those twelve people? A. With the—

Q. (Interposing): You can answer that "Yes" or "No". A.. Not all the twelve.

Q. Not all the twelve? A. No.

Q. How many of the twelve?

A. I would say about nine or ten.

Q. About nine or ten? A. Yes.

Mr. Myron: Now, your Honor, I ask that all the evidence of this witness be stricken from this record.

Presiding Inspector: I will deny the motion.

Mr. Myron: Exception.

(Testimony of Robert M. MacGregor.)

Presiding Inspector: Go ahead. I think it is perfectly proper.

Mr. Myron: The basis for his conclusion is nine or ten [3516] people.

Presiding Inspector: I think that is quite enough.

Mr. Myron: And scattered about the country.

Presiding Inspector: They are all in Portland.

By Mr. Myron:

Q. Were they all in Portland or around Portland?

A. All in Portland or around Portland.

Q. Were some of those nine or ten outside of the City of Portland?

A. I spoke to them all within Portland and I don't know whether they are there today or not. In fact, I know one isn't in Portland.

Q. But they were in Portland at the time you talked to them, they lived in Portland?

A. Yes.

Q. Who were these people—can you give us the names?

A. Well, I can you the names of a few. Among them were Cris Boesen—B-o-e-s-e-n—I think it is.

Q. Who is he?

A. He was an A. F. of L. lawyer associated with B. A. Green.

Q. With whom?

A. B. A. Green, also of Portland.

Q. Where did Mr. Boesen live?

(Testimony of Robert M. MacGregor.)

A. I don't know where he lived. I saw him in his office. [3517]

Q. Where is his office? A. Oh, dear—

Presiding Inspector: Do the best you can.

A. I think it is in the Corbett Building in Portland. At least it is a building in which some of the Corbetts have offices.

By Mr. Myron:

Q. You went to his office?

A. I went to his office.

Q. Did you know Mr. Boesen before?

A. No, I didn't.

Q. Have you seen him since?

A. Once or twice; yes.

Q. What are the names of the other people that you discussed this matter with?

A. Richard Scholz—S-c-h-o-l-z—I think it is. He was also present at the time that I spoke with Boesen, I might say, and added something to it.

Q. What does he do?

A. He is a newspaper man. He was at that time on the staff of the Portland Oregonian and is now associated with the Washington Daily News in Washington.

Q. Who else?

A. Mrs. Frederick A. Sweet.

Q. How do you spell that? [3518]

A. S-w-e-e-t.

Q. Who is she?

A. She was the wife of the Director of the Portland Art Museum.

(Testimony of Robert M. MacGregor.)

Q. Did you talk to her at her home or at the Art Museum?

A. I think, as a matter of fact, it was at my home.

Q. At your home?

A. Yes. He is no longer with the Portland Art Museum. He is with the Art Institute in Chicago.

Q. Who else?

A. Do I have to give all the names?

Presiding Inspector: Yes; all you can remember.

The Witness: But I don't want to give publicity to people.

Presiding Inspector: I know.

A. (Continuing): Another is Richard L. Newberger.

By Mr. Myron:

Q. Who is he?

A. I guess the Northwest Correspondent—I am not sure whether it is the Northwest or for Oregon—of the New York Times. He is also a member of the Oregon Legislature at the last session.

Q. Who else?

A. I am a little vague about who was there, but I might explain that much of this went on when I was first in Portland [3519] and I was meeting a great many people; but it was either Clyde Wade or Monroe Sweetland, at the Oregon Commonwealth Federation.

Q. Clyde—

(Testimony of Robert M. MacGregor.)

A. (Interposing): Clyde Wade.

Q. Spell that one?

A. W-a-d-e—I think.

Q. You gave another name?

A. Monroe Sweetland. It was either one, but I am not quite sure which.

Q. Who else?

A. Some of these people; their names I would rather not give.

Presiding Inspector: I know.

Mr. Del Guercio: I think the witness should be instructed to give the names. He is appearing here as one of these character witnesses and says he has heard these things and he should be compelled to state the names.

Presiding Inspector: He hasn't declined. Wait until he declines. He said he would rather not. That is perfectly natural. He will answer if I instruct him to answer.

Go ahead and ask the next question.

Mr. Myron: A question is pending.

The Witness: How many have I given?

Presiding Inspector: He had better give the names. [3520]

By Mr. Myron:

Q. Do you want to stop at nine?

Presiding Inspector: Go ahead.

A. Well, one is Mrs. Virginia Reynolds.

By Mr. Myron:

Q. Who is she?

(Testimony of Robert M. MacGregor.)

A. The wife of an assistant professor at Reed College.

Q. Who else?

A. Well, I am not quite sure who it was, that this meeting—it was a meeting of the, let me see, the Spanish Refugee Relief Campaign, and Wilmot's name somehow or other came up, not in the discussion, but in the preliminary discussion.

Q. I am not asking you about the discussion, but the names of the persons.

Mr. Grossman: Just one moment. It is quite obvious he is going to explain it was one of several and he was explaining why—

Mr. Myron: (Interposing) Let him name one of the seven.

Presiding Inspector: Go ahead and name them. If you cannot name them describe them.

A. (Continuing) One of those present at that meeting was Mrs., no, Miss K. L. Trevett—T-r-e-v-e-t-t.

I am trying to think of all who were there. [3521]

By Mr. Myron:

Q. Who was she?

A. She was formerly a teacher, I believe, in the Catlin School. She is an elderly lady.

Q. What is the name of the school?

A. Catlin—C-a-t-l-i-n—School. It is a fashionable girls' school in Portland.

Q. Now, you talked to her at what time—at a certain meeting that was held, is that true?

A. That is right. I overheard, I might say, and then asked a question, and—

(Testimony of Robert M. MacGregor.)

Q. (Interposing) Of course, I don't want to know anything about the conversation. I want the name of the person and the place.

A. There were three or four people talking and it is hard for me to remember.

Q. You overheard a conversation, is that it?

A. No. I actually came into the conversation and asked a question.

Q. It was at this meeting—where was that held?

A. That was in the office of the Portland Spanish Refugee Relief Campaign, which was in the Guardian Building, I think.

Q. Were you there in an official capacity?

A. Yes. [3522]

Q. As a newspaper man?

A. No. I was on the Committee.

Q. On the Committee?

A. Yes,—on whatever it was that they had.

Presiding Inspector: A member of the group?

The Witness: Yes.

By Mr. Myron:

Q. What kind of an organization was that?

A. Well, from the time that I became active in it until it more or less folded in Portland, money was raised for Spanish Refugees in France, those 400,000 or more that flooded across the border after the war was over in Spain, and I became interested in it first when I was asked to chair a meeting, after several other people had refused, and I usually get my dander up on such things, and I said I would chair it at that time.

(Testimony of Robert M. MacGregor.)

Q. Were these Loyalist Refugees?

A. Yes; Loyalist Refugees. The meeting speaker was Eric Muggerage—M-u-g-g-e-r-a-g-e—I am not sure but I think that is the spelling, who was a young Englishman representing the Duchess Atholl Committee for Refugee Children; and I know we persuaded a great many people to adopt these children, and we had certain meetings, and for a while we had an Executive Secretary who went out and raised money and we sent that on to New York and to France. [3523]

Q. Did you participate in the organization of this Committee?

A. Mainly merely by going to committee meetings, and I didn't go to very many.

Q. Who organized the Spanish Refugee Relief?

A. It had been going for a long time before I came to Portland, not in the form of Spanish Refugee Relief, but it had been the same group, the Medical—I don't know—Bureau for Medical Aid, or something of that sort—Medical Bureau.

Q. Is this a Communist front organization?

A. Not as far as I know. In fact, I sincerely doubt if it is.

Q. Did you investigate it at all before you joined? A. Not very thoroughly.

Q. You know what a "Fellow Traveler" is, don't you?

Presiding Inspector: What?

Mr. Myron: A "Fellow Traveler".

(Testimony of Robert M. MacGregor.)

A. Not exactly. I have never heard a definition of it.

By Mr. Myron:

Q. Don't you know what that is in Communist parlance?

A. I hear the term thrown around a great deal, but I don't know exactly what it does mean.

Q. Would you say that the members of that organization were considered "Fellow Travelers"?

A. I would like to—— [3524]

Mr. Grossman: (Interposing) Just a moment. The witness has stated he doesn't know what the words mean. I think he is entitled to a definition before the words are put into a question.

Mr. Myron: I will withdraw it.

By Mr. Myron:

Q. And who else did you talk to?

A. Who else?

Q. With whom else did you talk?

A. Coming back to that—Mrs. Mary Day.

Q. Who was she?

A. She was the wife of a man in Portland connected with the NYA—National Youth Administration. [3525]

By Mr. Myron:

Q. What is his position in the National Youth Administration?

A. I am not quite sure. I have not seen him for quite a long time and things have changed there. I mean, his position has changed.

(Testimony of Robert M. MacGregor.)

Q. Did you know him?

A. Yes, Uh-huh (Affirmative).

Q. And you knew his wife?

A. I knew his wife. She was connected with the Spanish Committee too. I knew her there.

Q. Who else?

A. There were several people around the CIO.

Q. CIO what?

A. The CIO offices in Portland. I went down there on this same thing and, as a matter of fact, I was looking for Wilmot and he was not there. In fact, I was told, if I remember correctly, that he wasn't working there any more.

Q. Who are the people you talked to?

A. I think—I think the first person I talked to down there was a person named Laux, or something like that. L-a-u-x. I know how to spell it. Ed Laux.

Q. L-a-u-x? A. Yes.

Q. Ed Laux? [3526]

A. Yes. I think he was the first person who mentioned that and I am trying to think who was the secretary of that organization when I first came to Portland, and I can't. I talked to the secretary, whoever he was.

Q. The secretary of the CIO?

A. The secretary of the Portland CIO, whoever he was. You see, on this investigation I had to go to every source that possibly might—and I had been told that Mr. Wilmot knew a great deal about the Portland Red Squad and I was looking

(Testimony of Robert M. MacGregor.)

for him, which was how his name came up, and practically all these places I was told that there wasn't—although he had known a great deal, there wasn't much point in talking to him because he was—although what he probably had known or would know might have been of some use to me, evidently it wouldn't be of use because his general reputation for veracity wasn't very good.

Q. Now, did you talk to anybody else?

A. I don't think so.

Q. Well, that includes the name of all those persons you talked to?

A. Well, there might be one or two others that I can't think of.

Q. And you talked to all these people in regard to Wilmot's character and reputation in the community?

A. That came up sooner or later. [3527]

Q. I say—

A. (Interposing) Either they said something about it or I asked them.

Q. Were these people talked to separately or in a group?

A. Certainly not in a group. I thought I made that clear. I was going around from place to place.

Q. You mentioned one meeting in which you discussed Wilmot's character and reputation.

A. Wilmot's character came up because—

Q. (Interposing) Were there any other persons that you talked to? Say, for instance, Cris

(Testimony of Robert M. MacGregor.)

Boesen. Was he alone at the time you talked to him? . .

A. No, I am pretty sure he wasn't.

Q. Who was with him?

A. I am not sure whether Mr. Green was in there at the time or not, this boy Richie Scholz, was with me. He took me there, and introduced me to Mr. Boesen.

Q. Those were the only persons present, is that right?

A. As far as I know. This was almost three years ago.

Q. Three years ago?

A. Almost. I say "almost". It was in the fall of, as I said earlier—

Q. (Interposing) The fall of what? [3528]

A. The fall of—didn't I say '38 when I first went to Portland? Yes.

Mr. Del Guercio: Did you?

The Witness: Yes, I think so.

By Mr. Myron:

Q. Was it the fall of '38? A. Yes.

Q. Is that the way you want to leave it?

A. Yes. I might say that some of these people, the thing came up much later, as I indicated in answering this lawyer's questions.

Q. Let me ask you if you talked to Cris Boesen or Ritchie Scholz—is that it? A. Yes.

Q. (Continuing) —Any time since the fall of 1938?

A. I have talked to Richie Scholz innumerable

(Testimony of Robert M. MacGregor.)

times. I stayed with him in Washington last summer.

Q. This is in regard to the character and reputation of Wilmot?

A. I am pretty sure that I talked to Richie Scholz either before or afterwards. I know that when we left I think we said something about it.

Q. On one occasion? On one occasion?

A. Oh, this is very hard for me to pin down so easily. [3529]

Q. Was it one or more than one?

A. I saw him during this period that I was gathering information on this organization in Portland, the Red Squad, so-called. I was seeing Richie Scholz almost every day.

Q. Now, you can answer my question. Was it once or more than once that you talked to him in regard to Wilmot's character and reputation?

Mr. Grossman: Just a second! Just a second!

Your Honor, the witness has indicated that it is impossible for him to state definitely whether it was—

Mr. Myron: (Interposing) Oh, I think he can state that himself.

Mr. Grossman: (Continuing) —whether it was once or more than once, and I think he should be permitted to finish his answer and say why it is difficult.

Mr. Myron: I didn't ask for any information. I just asked the witness if he spoke to these people

(Testimony of Robert M. MacGregor.)

once or more than once in regard to Wilmot's character and reputation.

Presiding Inspector: You can answer that.

The Witness: Yes.

Presiding Inspector: You can differentiate between them if you wish to.

The Witness: Yes. I was explaining when he—

By Mr. Myron: [3530]

Q. (Interposing) You did speak to him more than once, is that it?

A. I was explaining—

Q. (Interposing) Well, now, there is no need to explain.

Presiding Inspector: Now, you include them all together?

Mr. Myron: No, no. I spoke of—

Presiding Inspector: (Interposing) Do you mean each one of them?

Mr. Myron: He is speaking now of conversation he had with three people at one time, and I asked him if he had spoken to those people on more than one occasion.

Presiding Inspector: You mean all three?

Mr. Myron: Just those three people.

Presiding Inspector: Separately? He may have seen—

Mr. Myron: (Interposing) Any of those three people.

Presiding Inspector: Well, that I didn't get from your question.

(Testimony of Robert M. MacGregor.)

The Witness: Do you include among those three myself?

By Mr. Myron:

Q. No, you spoke to them.

A. I mean, you are saying, Did you speak to those three people? There were three people present.

Q. Let us take them individually. Take Mr. Boesen. [3531] How many times have you spoken to him in regard to Wilmot's character and reputation? A. I thought I said before—

Q. (Interposing) Now, answer it.

A. Once, I said. I said that some time ago.

Q. How many times did you speak to Mr. Scholz?

A. As I said, it is impossible to say. I was seeing him every day or off and on every day over a period of time.

Q. Was it once or more than once?

A. It was more than once.

Q. About his character and reputation?

A. Yes.

Q. How many times did you talk to Mrs. Sweet in regard to Wilmot's character and reputation?

A. Only once.

Q. How many times did you speak to Richard Newberger in regard to Wilmot's character and reputation?

A. I think he brought it up once.

Q. How many times did you speak to Clyde

(Testimony of Robert M. MacGregor.)

Wade in regard to Wilmot's character and reputation?

A. I think I explained in regard to both Wade and Monroe Sweetland that I was not sure which it was and it might have been both. They were both in and out of the office at the time I was there and it was—as far as I remember, only once did I ask about it. [3532]

Q. And how many times did you speak to Virginia Reynolds?

A. Once, I think. After all, Mr. Wilmot was not very important in my life, as I say.

Q. Well, he is important enough for you to come down here and testify regarding his character and reputation, wasn't he?

Mr. Grossman: He said that Mr. Wilmot wasn't important "at that time".

The Witness: That's right.

Presiding Inspector: Go ahead. Ask the next question.

By Mr. Myron:

Q. How many times did you speak to Mrs. Mary Day?

A. I think it was only once, and I checked with her the other day on the phone to see what I thought I remembered was correct.

Q. When did you check with her?

A. Saturday night.

Q. Last Saturday night.

Q. You called her on the phone?

A. That's right.

(Testimony of Robert M. MacGregor.)

Q. For what purpose?

A. As I explained, to ask whether or not what I remembered—what I thought I remembered her having said about [3533] Wilmot was what she thought she remembered having said. Does that make it clear?

Q. Well, when did you know you were coming down here to testify?

A. I knew last Saturday afternoon.

Q. Who contacted you?

A. A man named Rodman in Portland.

Q. Who is he?

A. He is the Chairman of the Harry Bridges Defense Committee.

Q. In Portland? A. In Portland.

Q. Is he a member—

A. (Interposing) He isn't the Chairman. I guess he is the secretary or something.

Q. Did you know him before he contacted you?

A. Yes.

Q. Saturday? A. Yes.

Q. How long have you known him?

A. Since about the—I think its the first week in March of this year.

Q. How did you become acquainted with him?

A. Well, I am the Chairman of a civil liberties organization in Portland called The Portland Emergency Council for [3534] Democratic Rights. You probably know that. And Mr. Rodman was at that time writing a CIO news broadcast which came over KXL and which was in effect banned

(Testimony of Robert M. MacGregor.)

from the air at that time, and he wrote me a note and then called me up on the phone because I hadn't answered it and asked me to come down and, needless to say, we protested such a banning. But they asked—the first time I ever saw him he asked me to come down to a meeting of their radio committee on a Monday night at which they were to discuss the problems in connection with this banning.

Q. And when was this?

A. I think it was the first week in March. I would have to have documents.

Q. And you have been friendly with him since that time? A. Yes.

Q. You have seen him on numerous occasions?

A. I wouldn't say "numerous". I contributed something to the defense fund for Harry Bridges, and——

Q. (Interposing) Now——

A. (Interposing) What?

Q. Was he one of the persons with whom you discussed Wilmot's character or reputation?

A. No.

Q. He wasn't? [3535]

A. No. I might say I discussed merely, oh, I thing after Mr. Wilmot had testified here I mentioned to him that I remembered some of the things that were said about Wilmot when I first came to Portland.

Q. I think you testified that Wilmot didn't mean

(Testimony of Robert M. MacGregor.)

much to you at the time in 1938 when you heard these things? A. That's right.

Q. When did he start to begin to mean a great deal to you?

Mr. Grossman: If at any time.

A. Yes. I don't think he does today.

Mr. Del Guercio: If your Honor please, counsel shouldn't interject.

Presiding Inspector: I think it is perfectly obvious. I will let it stand.

A. (Continuing) As I say, I don't think he means much to me now.

By Mr. Myron:

Q. Well, you remember, you say from 1938, the fall of 1938, when you heard these things discussed regarding Wilmot's character and reputation up to March, 1940, Wilmot didn't mean a thing to you?

A. Sure.

Q. And those things that were said at that time?

[3536]

A. I wouldn't say "a thing". He didn't mean much.

Q. And those things that were said at that time didn't leave any impression in your mind?

A. Not very firm. I am generally interested in personalities and so on, and about many people I find myself laying aside little facts, bit by bit, that all mount up in a general picture.

Q. Well, how does it happen that you came down here to testify about these things?

A. Because I was asked to.

(Testimony of Robert M. MacGregor.)

Q. By whom? A. Mr. Rodman.

Q. Did he know that you had heard these things, various discussions about Wilmot's character and reputation?

A. Yes. I think, as I said a few minutes ago or a few moments ago, I had mentioned to Mr. Rodman that after Wilmot testified in this court that I had heard various things about him.

Q. You told Mr. Rodman that at that time. What was the occasion for telling him that in March or April; whenever it was?

A. This was not in March or April.

Q. When was this?

A. This was, oh, within the last two weeks. It is a little hard for me to say. It may have been—I think it [3537] was possibly—I went down to the Harry Bridges Defense Committee offices to pick up 250 copies of Dalton Trumbeau's pamphlet on Mr. Bridges, which my organization was enclosing in a circular which went out last Monday.

Q. What is your organization?

A. I was telling you a moment ago.

Presiding Inspector: He may not be able to identify it.

The Witness: Oh, I am sorry.

Presiding Inspector: You spoke of a number of organizations.

The Witness: Yes. This is The Portland Emergency Council For Democratic Rights.

By Mr. Myron:

Q. Go ahead. You were explaining.

(Testimony of Robert M. MacGregor.)

A. Oh, merely that I was down there to pick up these 250 pamphlets which we mailed out this last week along with our own regular circular and our regular news letters and, oh, I was talking over, asking him questions about how this case was going.

Q. Asking who?

A. Mr. Rodman, the same man.

Q. And you volunteered this information to Mr. Rodman?

A. Sure.

Q. You told him about what you knew or what you thought?

A. No. I merely mentioned at that time that, when we [3538] were talking about—he was talking about Wilmot, I believe, that—

Q. (Interposing) Did he ask—

A. (Continuing) I said something like that. No, I said something like this: "Oh, I remember about him. I remember people talking about him some long time ago, sometime ago".

Q. That was about two weeks ago?

A. I think it was a week ago last Wednesday, but I am not absolutely sure. It was one of those afternoons.

Q. You testified two weeks ago. Do you want to change that?

A. Did I say—I said "about" two weeks ago.

Q. About two weeks ago?

A. I thought I said "earlier than a week ago."

Q. Do you want to make it definite now, about a week and a half?

(Testimony of Robert M. MacGregor.)

A. I thought I said "earlier"; around a week ago Wednesday.

Q. Now, after that occasion did you see Mr. Rodman again? A. Yes, I did.

Q. When?

A. In a lawyer's office on Friday morning,—last Friday morning. [3539]

Q. What was the name of the lawyer?

A. Irving Goodman.

Q. How did you go to his office?

A. By car and walking.

Q. Well, did you get a telephone call requesting you to come to the office?

A. Yes, I did. Mr. Rodman called up and asked that I come.

Q. And you went to Mr. Goodman's office?

A. Yes.

Q. Was Mr. Rodman there?

A. Mr. Rodman was there part of the time.

Q. And was Mr. Fitzgerald there? A. No.

Q. Mr. Fitzgerald wasn't there?

A. I don't—I know the Mr. Fitzgerald that you are referring to, the one that was mentioned, I believe, in this hearing.

Q. Well now, I am asking you if Mr. Fitzgerald was in the office at the time that you were there with Mr. Rodman.

Presiding Inspector: We hadn't heard about Mr. Fitzgerald from him.

Mr. Myron: I am asking him—

Presiding Inspector: (Interposing) I know,

(Testimony of Robert M. MacGregor.)

but he wants to be sure that it is the Fitzgerald that you are speaking of. [3540] Was any man named Fitzgerald there?

The Witness: Not as far as I know.

By Mr. Myron:

Q. Mr. Kenneth Fitzgerald was not there?

A. Not as far as I know.

Presiding Inspector: Not as far as he knows, he says.

By Mr. Myron:

Q. Have you seen and talked with Mr. Kenneth Fitzgerald in the past two weeks? Do you know him? A. No.

Q. You don't know Mr. Fitzgerald?

A. I said I didn't.

Mr. Myron: I am going to start a new subject matter.

Presiding Inspector: Bring him a drink of water.

Mr. Del Guercio: We have no objection—

Mr. Myron: (Interposing) I am going to start a new subject matter. I thought we might recess here.

Presiding Inspector: I want to leave promptly at 4:00. I have a dentist engagement.

Mr. Myron: May we stop now?

Presiding Inspector: Of course, I don't want to go there.

Mr. Myron: May we stop here?

Presiding Inspector: If you would like to stop

(Testimony of Robert M. MacGregor.)

here; yes. Very well, tomorrow morning at 10:00 o'clock.

(Whereupon, at 3:55 P.M. an adjournment was taken to Tuesday, May 13, 1941, at 10:00 A.M.) [3541]

Court Room 276,
Federal Building,
San Francisco, California,
May 13, 1941.

Met, pursuant to adjournment, at 10:00 A.M.

[3542]

PROCEEDINGS

Presiding Inspector: Mr. MacGregor was on the stand when we closed yesterday.

Mr. Grossman: Yes. Your Honor, probably it is the desire to put on Dr. MacMickle and get this over with.

Presiding Inspector: All right.

Mr. Grossman: Because I presume that won't take very long.

Presiding Inspector: I don't know. Call him.

VIRGIL MacMICKLE

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Mr. Del Guercio: If the Court please, I made a

(Testimony of Virgil MacMickle.)

statement yesterday that we would get the original application for license. We were unable to get that without subpoenaing the person, and we couldn't do that, so we got a photostatic copy of the application, application for examination, State of Oregon, to the Naturopathic Board of Examiners.

(Whereupon the document referred to was passed to Alien's counsel.)

Cross Examination (Resumed)

By Mr. Del Guercio:

Q. Now, Mr. MacMickle, I will show you what purports to be a photostatic copy of an application for examination, State of Oregon, Naturopathic Board of Examiners, the application received at the office of the Secretary of the Naturopathic [3543] Board of Examiners on the 27th day of August, 1927, and ask you if you recognize this?

A. (Examining document) Yes.

Q. Is that a true photostatic copy of the original application? A. Well, I wouldn't know that.

Q. Well, examine it and see.

A. Well, as near as I can see—I am not an expert on photostatic copies.

Q. Is that your signature appearing on the bottom of the second page?

A. Yes, sir; that is my signature.

Mr. Del Guercio: I offer this in evidence, if your Honor please, as Government's Exhibit next in order.

Presiding Inspector: Received without objection.

(Testimony of Virgil MacMickle.)

(The document referred to was received in evidence and marked Government's Exhibit No. 263.) [3544]

By Mr. Del Guercio:

Q. Now, Mr. MacMickle, this application was filled out in your own handwriting, was it not?

A. Yes, sir.

Q. This application states that you attended the MacFadden and American College of Naturopathy two years each, years four. Did you make such a statement on this application?

Mr. Grossman: Just one moment. I think the answer already given answers this question. The doctor stated that he believes this is his application.

Mr. Del Guercio: I will withdraw that question.

By Mr. Del Guercio:

Q. Did you attend MacFadden and American College of Naturopathy two years each?

Mr. Grossman: I object on the ground it has been asked and answered several times.

Presiding Inspector: I think it has been answered. I think he said he didn't. If he wants to change it—

Mr. Del Guercio: If the Court please, I think there is something in the record that should be cleared up. I went over the transcript of his witness. Yesterday, in answer to that question, he said "That is what my diploma shows." Now, I think we are entitled to get an answer from him.

Presiding Inspector: Well, he said yesterday

(Testimony of Virgil MacMickle.)

very definitely that he spent twelve months, that he was away three [3545] months of that year.

Mr. Del Guercio: I don't believe he answered—

Presiding Inspector: Oh, yes, he said that. I recall it very definitely, in the Chicago institution, and that the time in the New York institution might have been six months, or he couldn't tell exactly the length of time.

The Witness: Yes.

Presiding Inspector: Now, that was your testimony, wasn't it?

The Witness: That is right.

Presiding Inspector: If I am wrong about it—

The Witness: That is right.

Presiding Inspector: Because I am giving it from memory.

The Witness: Well, that is right; that is the way I gave it.

Presiding Inspector: That is the way he gave it. I think that is very definite, Mr. Del Guercio.

Mr. Del Guercio: Very well.

By Mr. Del Guercio:

Q. Did the American College of Naturopathy, New York City, issue degrees?

A. Yes, they issued a degree.

Q. What kind of a degree?

A. Doctor of Naturopathy.

Q. Is that a degree? [3546]

A. That is a degree.

Q. Is the College of Naturopathy authorized to

(Testimony of Virgil MacMickle.)

issue degrees under the laws of the State of New York?

Mr. Grossman: I object to that as calling for the conclusion of the witness on a question he obviously is not qualified to answer.

Presiding Inspector: I don't suppose he knows, but if he knows, why, he may state it.

Can you answer that?

The Witness: I wouldn't know, no.

By Mr. Del Guercio:

Q. Well, as a matter of fact, Mr. MacMickle, you know, do you not, that under the laws of the State of New York the American College of Naturopathy cannot issue degrees of any kind?

Mr. Grossman: I object to that as incompetent, irrelevant and immaterial, and argumentative.

Presiding Inspector: I will take it.

A. No, I don't know it.

Mr. Del Guercio: That is all.

Presiding Inspector: Any questions?

Mr. Grossman: No more questions.

Presiding Inspector: That is all.

(Witness excused.)

Mr. Del Guercio: May we substitute a photostatic copy [3547] of Government's Exhibit No. 263?

Presiding Inspector: Yes. You asked that be permitted.

Mr. Del Guercio: Yes.

Presiding Inspector: Yes.

You may not have heard. There was a substit-

tion of certain photostatic copies which we had already—

Mr. Grossman: Yes, that is all right.

Presiding Inspector: Call the next witness. I suppose, Mr. MacGregor.

Mr. Grossman: Mr. MacGregor. [3548]

ROBERT M. MacGREGOR

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Cross Examination (Resumed)

By Mr. Myron:

Q. Mr. McGregor, you spoke yesterday of the Portland Emergency Council for Democratic Rights.

A. Yes.

Q. And you spoke of being a member of that organization?

A. Yes.

Q. When was that organization formed?

A. A little over a year ago.

Q. Were you instrumental in the formation of that organization?

A. Very decidedly.

Q. Was any other person interested in the formation of it with you?

A. I think several other people; yes.

Q. Who were they?

A. A Mrs. Sinclair—S-i-n-c-l-a-i-r.

Q. Where does she live?

A. In Portland. It is hard to say exactly—the thing was formed somewhat spontaneously as a

(Testimony of Robert M. MacGregor.)

result of, or after I wrote an article on this rather shocking Red Squad in Portland, and— [3549]

Q. (Interposing) I asked you who was instrumental in the formation of this organization.

A. I was saying that certain of the people who were more or less instrumental in it in the beginning were no longer active after the organization was formed.

Q. Well, who were the persons that were instrumental in the beginning of the formation of it besides Mrs. Sinclair? I think you mentioned her as one and you as another.

A. Yes.

Q. Who were the others?

A. Oh, a Mrs. Beatrice Stevens.

Q. Where does she live?

A. She lives in Portland. And Allan Hart was very interested in it, and so on—Gus Solomon, who was a lawyer in Portland.

As I started to explain, we had a meeting, got together and talked—

Q. (Interposing) I didn't ask you any question.

Presiding Inspector: No question is pending.

By Mr. Myron:

Q. Are those the only persons that you can remember?

A. Well, that is all I can recall at the moment.

Q. Now, is that organization still in existence?

A. Yes.

Q. Is that organization interested in the defense

(Testimony of Robert M. MacGregor.)
of [3550] Harry Bridges in this case? You can answer that "Yes" or "No".

A. I think that we have taken no stand on anything that we, ourselves, have published yet, but we did distribute these pamphlets about which I spoke yesterday.

Q. Are you an officer of the organization?

A. Yes; I am Chairman of it.

Q. Chairman? A. Yes.

Q. Are there any other officers?

A. Yes; there are some Vice Chairmen.

Q. Who is the Vice Chairman?

A. There are two Vice Chairmen; one is Miss Jessie Short.

Q. Where does she live?

A. She lives in Portland. And Roger Chase, Jr.

Q. Where does he live?

A. Also in Portland.

Q. Are there any other officers?

A. He was one of those, by the way, that helped organize it.

There is an Executive Committee, which includes Ronald Calvert, Jr., Mrs. Charles McKinley, Mrs. Sinclair—I can't recall them all off-hand.

Q. Is that all you can recall?

A. Off-hand. [3551]

Q. Now, you stated yesterday, I believe, that you went to the Bridges Defense Committee to secure copies of Dalton Trumbeau's pamphlet on Harry Bridges? A. That is right.

Q. For distribution by this organization, is that true? A. Yes.

(Testimony of Robert M. MacGregor.)

Q. Did you do that of your own—without any instructions from the organization?

A. The organization as such is set up so that I am empowered—

Q. (Interposing) You can answer that “Yes” or “No”.

Presiding Inspector: I will allow him to explain.

A. Our organization is so set up that I have the power to do such things. However, I did discuss it with several members of the Executive Committee.

By Mr. Myron:

Q. And they all agreed to your going down and securing these pamphlets and distributing them?

A. Yes.

Q. Did you distribute personally these 250, or did you pass them out to other members for distribution?

A. It was sent out to our mailing list.

Q. To members of the organization or to other persons?

A. Some of them were to other persons.

Q. And you supervised this work of mailing these pamphlets out to various people? [3552]

A. Yes.

Q. I think you stated yesterday that you contributed money to the Bridges Defense Committee?

A. Yes.

Q. How much did you contribute?

A. \$2.00.

Q. When was that contribution made?

A. Oh, possibly—it is hard to remember—I gave cash and so I wouldn't have a check stub.

(Testimony of Robert M. MacGregor.)

Q. Well, was it a week ago, or two weeks ago, or a month ago?

A. I think it was possibly three or four weeks ago.

Q. About three or four weeks ago?

A. Yes; something of that sort.

Q. Was that the only contribution you made?

A. That is right.

Q. To whom did you make this contribution?

A. To Mr. Rodman.

Q. Mr. Rodman? A. Yes.

Q. Now, have you been interested in any other way in the Bridges Defense?

A. I don't think so.

Q. Let me ask you this: Are you a member of the Bridges Defense Committee in Portland? [3553]

A. No.

Q. Or at any other place, in California?

A. No.

Q. And you haven't done anything else in connection with the Bridges defense? A. No.

Q. Except testify here?

A. Yes. I attended a couple of meetings; one meeting at which it was discussed.

Q. What meeting was that?

A. There was a luncheon out at Reed College at which a young woman spoke on Harry Bridges.

Q. Was this a meeting of an organization in Reed College?

A. I think it was a student organization of some

(Testimony of Robert M. MacGregor.)

sort. I don't know quite what organization, if it was an organization.

Q. You are a teacher at Reed College, aren't you?

A. I am.

Q. And you attended a meeting there at the College of the student body, or part of the student body, and you don't know what organization it was?

Mr. Grossman: I object to the question as argumentative.

Presiding Inspector: It shows his attitude. I don't see any implication in it. I will take it. I think the witness is capable of taking care of himself.

A. There are continual meetings at Reed College, luncheon [3554] meetings, and so on—

By Mr. Myron:

Q. (Interposing) I don't want to know about any other meetings.

A. (Continuing) Well, somebody merely told me this person was going to speak on Harry Bridges and wouldn't I like to come and listen.

Q. Who told you that? A. A student.

Q. What was his name?

A. I think it was Douglas Smith—I am not exactly sure.

Q. Does he represent any organization at Reed College? A. Not as far as I know.

Q. Is he a member of any organization up there? A. Probably.

Q. Do you know?

(Testimony of Robert M. MacGregor.)

A. I don't know. I think practically all students are members of various organizations.

Q. You don't know whether he is a member of any organization, is that right, of your own knowledge? A. I wouldn't say definitely; no.

Q. And you don't know who was in charge of this meeting, is that right?

A. I don't even know who was Chairman of it. I came in late and it was already very well in progress. [3555]

Q. Where was it held?

A. I think it was in the Blue Room, which is a dining room off the main Commons at Reed College.

Q. Was it necessary to have authority from the Professors of the College before they could hold a meeting of this type?

A. I don't think it is.

Q. It is not necessary?

A. No. I have never heard of that ruling.

Q. Then they can hold various meetings in the halls of the College without any authority from the officials of the College?

Mr. Grossman: I object to that as incompetent, irrelevant and immaterial.

Presiding Inspector: That is repetition.

Mr. Grossman: I don't think we are trying Reed College theories or rules.

Presiding Inspector: I have been doubtful about what we have been trying at times. I will take this particular answer. I think it is merely repetition.

(Testimony of Robert M. MacGregor.)

The Witness: Could you repeat your question?

Mr. Myron: Read the question.

Presiding Inspector: Let the reporter read it.

(The question referred to was read by the reporter as above recorded.) [3556]

A. I would say it is very difficult for me to say, because I have never heard of such a ruling, but I know of certain occasions when meetings have not been held at the College because the Administration at the College objected, or the Student Council objected. [3557]

By Mr. Myron:

Q. Now, the Portland Emergency Council for Democratic Rights, is that affiliated with any national organization?

A. Yes, it is affiliated with the National Federation for Constitutional Liberties.

Q. And where is the headquarters of that organization? A. In Washington, D. C.

Q. Do you know who organized the National Federation for Constitutional Liberties?

A. Yes, I was at the meeting at which it was organized in Washington.

Q. Did you represent an organization at that time or an affiliate?

A. I represented my organization which was not affiliated with it at that time.

Q. Did you take part in the organization of the National Federation for Constitutional Liberties?

A. A very small part, yes.

(Testimony of Robert M. MacGregor.)

Q. Were you a delegate?

A. I was delegated from my organization, yes, to a conference. It was not—it was a conference on constitutional liberties.

Q. When was that held?

A. It was in the first or second week of June, 1940.

Q. And who were some of the organizers of that organiza- [3558] tion?

A. Oh, I think his name is A. J. Isserman, I-s-s-e-r-m-a-n. I am not sure, but I think that Mr. Carey McWilliams had something to do with it. As I say, it is very hard for me to remember the people from Washington with whom I had so much correspondence.—I believe that Mr.—what is his name—Smith who was on the N.L.R.B. had something to do with it.

Q. Were you a sponsor of this organization?

A. I was, yes. I think I still am.

Q. Did you meet Mrs. King there?

A. I met Mrs. King at a couple of meetings. She didn't remember me yesterday.

Q. I say did you meet her in Washington?

A. Yes, I did.

Q. She was a sponsor, wasn't she?

A. I don't remember whether she was a sponsor or not. I met her there but she didn't remember me yesterday.

Q. Are you a member of the Communist Party, Mr. McGregor? A. No.

(Testimony of Robert Mr MacGregor.)

Q. Have you ever at any time been a member of the Communist Party? A. No.

Q. Have you been employed by the Communist Party? A. Certainly not. [3559]

Q. Where were you in 1935? A. 1935?

Q. At any time during the year 1935 and '36?

A. I was in Russia, I think, at that time.

Q. What were you doing in Russia?

A. Well—

Q. Now, what were you doing? Were you employed in Russia?

A. I was employed in Russia.

Q. By whom?

A. Several magazines and by—I wrote publicity for Intourist, or re-wrote publicity. I did a good deal of editing and translating and so on. I was also working, or doing work for the New Republic, which was the main reason I went there.

Q. Working for whom?

A. A magazine in New York called the New Republic.

Q. Is that all the work you did in Russia?

A. Oh, I also taught English and English Literature at a part—I think it was a part of Moscow University called the Electro-technical Institution.

Q. Well, now, that is a government institute, isn't it? A. Yes, sir.

Q. And it is run by the Communist Party, isn't it? A. As I understand things— [3560]

Q. (Interposing) Well, now, is it or isn't it?

(Testimony of Robert M. MacGregor.)

A. I think not. You asked if I was employed by the Communist Party, didn't you?

Q. Now I am asking you whether you were employed by the University of Moscow?

A. Yes, I was.

Q. And that is a Communist University, isn't it?

A. Not specifically. They have universities which they call Communist.

Q. Well, isn't this a government university?

A. Yes, it is a government university.

Q. And isn't the government of Russia Communist?

A. Yes, they say so.

Q. Well, then, you were employed by the Communist Party of Russia, weren't you, as a teacher at this university?

Mr. Grossman: Just one moment. If this question, as it seems to, purports to recapitulate the testimony of this witness I think it assumes something not in evidence because the testimony of this witness has made some distinction, as Mr. Myron's questions have, between the Communist Party and the government of Russia.

Presiding Inspector: I don't know whether it does.

Mr. Grossman: Now, Mr. Myron is attempting to bridge that step as if this witness had bridged it himself, stating that he was employed by the Communist Party. Now, that doesn't summarize—

[3561]

Mr. Myron (Interposing): I don't know if Mr.

(Testimony of Robert M. MacGregor.)

Grossman wants to testify in this case. I don't think he has made an objection to the question.

Presiding Inspector: He has made an objection. I will hear him. He has made an objection. He is arguing the objection.

Mr. Grossman: Yes, I did. I say if it attempts to summarize the testimony of this witness I think it is an improper question because I think it improperly summarizes.

Mr. Del Guercio: If the Court please—

Presiding Inspector: I have already ruled and allowed the question.

Read the question, if you want to have it read.

The Witness: Please, could I have the question?

(The question referred to was read by the reporter as above recorded.)

A. I would say, from my understanding, that I was employed by an organization which may have had connections with the Communist Party, or the government, maybe controlled by the Communist Party, but directly I was not employed by the Communist Party, as far as I know.

By Mr. Myron:

Q. How long a time were you in Russia?

A. I think it was almost a year and a half.

Q. During what period of time?

A. Well, I got there early in—I think it was early in [3562] 1935 and I left in June of 1936.

Q. How did you receive your appointment to this university?

(Testimony of Robert M. MacGregor.)

A. With a great deal of difficulty.

Q. Well, now, I am asking you how?

A. They didn't like me very well and I had to see all sorts of people, and so on, and finally—

Q. (Interposing): How did you go to Russia?

A. By way of London and Helsinki.

Q. For what purpose did you go to Russia?

A. I would say I had three purposes. I had been working for a—could I have some water, please?

Presiding Inspector: Yes. Mr. Moore, will you get some water for the witness?

A. I had been working for a publishing firm in New York called Harcourt Brace & Company as an assistant editor and the job I had was free, or I got the job there because a young man had had to leave. He was sick; he had infantile paralysis, and he came back.

By Mr. Myron:

Q. This is about your job in New York?

A. This is about going to Russia. He came back and so the trade department of Harcourt Brace was over-staffed at that time. They kept assuring me that they wanted me to stay on, but on the other hand, I knew that my salary, which was [3563] forty or forty-five a week, was an added and extra expense, and after a time I decided that I should leave somehow or other. Then, I had been abroad a couple of times before in summers and I decided that that—

Q. (Interposing): To Russia?

A. No, I had never been to Russia before. I

(Testimony of Robert M. MacGregor.)

had decided that I would like possibly to go abroad again before I settled down definitely and see something more of the world. I made a very careful survey of—since I didn't have enough money to live abroad indefinitely I made a fairly careful survey of the possibilities of jobs in European countries. And at that time, I think that you will remember because of unemployment and the depression, most countries of Europe had restrictions on employment of non-citizens, non-citizens of their own countries. I even had some correspondence with a girl who had been an executive in Maceys, New York, the big store, and who was employed by Selfridge & Company in London. I had some correspondence with her about the possibilities of going to work in England, possibly for her organization, and that seemed to be more than difficult, et cetera, so that—in fact, it seemed practically impossible unless I could produce evidence that what I could do nobody else could do, or very few people could do. The same thing was true in France, of course, and Germany and Italy. Central Europe, I gather, was even more restricted, and you will probably remember that [3564] was the time when there were a great many books written about Russia and a great many people were reading about Russia and interested in Russia on all sides. I was told that I could gain employment in Russia if I went there.

Q. You were told by whom?

(Testimony of Robert M. MacGregor.)

A. Oh, I think that,—I think, as a matter of fact, Mr. Harcourt was one of the people.

Q. Mr. who?

A. Mr. Harcourt was one of the people who mentioned that.

Q. Mr. Harcourt?

A. He is President of Harcourt Brace; his name is Alfred Harcourt.

Q. Now, what kind of employment did he promise you in Russia?

A. I think that the question implies a little too much.

Presiding Inspector: What did he promise you?

The Witness: He promised me nothing obviously.

By Mr. Myron:

Q. Well, who did?

A. Nobody promised me anything.

Q. And you went to Russia without any idea of securing employment there, is that it?

A. I went to Russia with the thought that possibly I could secure employment. I also went with a letter from one [3565] of the editors of the New Republic, saying that I was commissioned to collect material and work for them in Russia.

Q. What was the name of the editor?

A. Malcolm Cowley, C-o-w-l-e-y.

Q. To whom was the letter addressed?

A. "To whom it may concern."

Q. And signed by the editor?

(Testimony of Robert M. MacGregor.)

A. Signed by Cowley, yes.

Q. Did you use that letter in securing employment in Russia?

A. I certainly did, yes; not in securing employment, I used it as identification at the foreign office in order to get passes to witness various things in Russia and so on, just as any correspondent does.

Q. Now, where did you leave from in the United States to go to Russia? A. New York.

Q. This was when?

A. It is again a little hard to give the date of a sailing.

Q. Approximately?

A. I think it was either the end of December or the beginning of January; I think it was the beginning of January. That would have been 1935.

Q. And did you secure a passport? [3566]

A. Yes, sir.

Q. And did you state the purpose for which you were traveling to Russia?

A. I don't think that is necessary on a passport.

Q. Well, I am asking you did you state?

A. Not as far as I know.

Q. And what name did you use?

A. My own.

Q. When did you arrive in Russia?

A. I wish I had that old passport here and I would be able to tell you exactly.

Presiding Inspector: Did you go directly?

(Testimony of Robert M. MacGregor.)

The Witness: What?

Presiding Inspector: Did you go directly?

The Witness: No; I spent almost four weeks, and maybe more, in England.

By Mr. Myron:

Q. Then you didn't go directly to Russia, is that it? A. No.

Q. You went where first? A. England.

Q. How long did you spend in England?

Presiding Inspector: He said about four weeks. Go ahead; ask the next question. He said about four weeks:

By Mr. Myron: [3567]

Q. From England did you proceed to Russia?

A. From England I took a boat from Hull, a small Finnish boat that went around by Copenhagen and up into the Baltic and then up to Helsinki, which is in Finland. It stopped at Copenhagen.

Q. Now, when did you arrive in Russia approximately?

A. Oh, well, it must have been in February or March of 1935.

Q. And did you obtain employment at that time with the University of Moscow?

A. No; I was unemployed there for a long time, although I had—I was given or secured jobs of translating and so on.

Q. By whom?

A. Well, this one was secured for me by Her-

(Testimony of Robert M. MacGregor.)

man Habbich, who is the representative of the United States Lines in Moscow.

The Reporter: Spell it, please.

The Witness: H-a-b-b-i-c-h, I think.

By Mr. Myron:

Q. By whom were you employed?

A. I was not employed by anybody directly.

There was a woman, whose name I can't even remember, who knew English quite well, or, at least, to speak it. She knew a great many languages and she was translating, I think, it was a series of [3568] speeches by Gorki, the Russian writer.

The Reporter: Spell it, please.

The Witness: G-o-r-k-i or G-o-r-k-y.

Presiding Inspector: We usually spell it with a "y".

The Witness: She was doing this translation, but her English needed more polishing up. She knew the sense, more or less, but—

By Mr. Myron:

Q. (Interposing): Then, she employed you, is that right? A. She employed me, yes.

Q. How long did you work for her?

A. It took us almost a month, I think, to do this translation, one of the most maddening months I have ever spent.

Q. This was about April or May, is that right.

of '35? A. I think so, yes.

Q. Now, when did you become an instructor in the University of Moscow?

(Testimony of Robert M. MacGregor.)

Presiding Inspector: Your best recollection?

A. I am pretty sure it was during this period.

By Mr. Myron:

Q. During the period that you were employed by this woman—— [3569]

A. (Interposing): I worked with her almost immediately after I arrived in Moscow, well, possibly about three weeks after I arrived in Moscow and, therefore, I would say that it was probably in March, and I began working at—while I was working for her I began teaching at the Electro-technical Institution.

Q. Who secured your appointment at that institution?

A. I wish I could remember his name; he was also a friend of this Herman Habbich and he was a German whom, I was told later, was—or whom I was told was later arrested as a German spy, or something of that sort.

Q. Now, how long did you work at the university?

A. I worked during that spring and until—there was a summer session, I think, and I gave lectures then until about September 19—when we left Moscow.

Q. September of what? A. 1935.

Q. 1935?

A. Yes; we left Moscow at that time. [3570] /

Q. You were not in Moscow in 1936, is that right?

(Testimony of Robert M. MacGregor.)

A. Well, I might explain that we had to leave Moscow because of the perennial room trouble. There was a terrific shortage, and probably still is, of housing, and we had a room in an apartment rented from the people who owned the apartment.

Q. How long did you spend in Russia?

A. I said it was about a year and a half.

Q. During that time were you teaching, with the exception, now, of a few months after you came to Russia, were you teaching continuously at the University until you left?

A. Oh, no. I said I left the University in September or, maybe, I guess it was in October, 1935.

Q. And where did you go from there?

A. Well, we wanted to—

Presiding Inspector: Just where you went.

A. (Continuing): O. K. We started a long tour around Russia, with the idea of possibly that we would go on to China if we didn't see anything, any place that looked as though it had better housing. We thought we ought to see more of Russia. So we started out and went to Crimea, and stayed for a while at Yalta—Y-a-l-t-a—which is a resort.

By Mr. Myron:

Q. Did you do any work there?

A. No. Then we took a boat from there on the Black Sea, which went, skirted around the Black Sea and finally went to, [3571] landed at Batum—B-a-t-u-m—which isn't very far from the Turkish border.

Q. Were you doing any work at this time?

(Testimony of Robert M. MacGregor.)

A. No.

Presiding Inspector: In the Caucasuses.

By Mr. Myron:

Q. You were not employed? A. No.

Q. That is, from the time you left the University until the time you left Russia you were not employed, is that right?

A. I want to explain that we——

Q. (Interposing): Well——

Presiding Inspector: There is nothing to found that on. He may explain. He hasn't said that.

Mr. Myron: I think he said he was unemployed.

Presiding Inspector: Oh, no; he hasn't said that. He may explain.

Mr. Myron: Let him explain.

Presiding Inspector: As I understood it, he wasn't employed at the University, but he has been doing odd jobs, writing and collecting material, and whether you call that employment or not it is very indefinite.

Now, I will let him explain what he did after this. If you are interested in this world travel, go ahead.

Mr. Myron: I am very much so, your Honor.

[3572]

Presiding Inspector: Then probably more than the Presiding Inspector is, but go ahead.

A. (Continuing): From Batum we went to Tiflis—T-i-f-f-l-i-s.

Presiding Inspector: That is in Georgia?

The Witness: The capital of Georgia. There we ran into people that we had met in Moscow, who

(Testimony of Robert M. MacGregor.)

were planning a walking trip into the Caucasuses.

We stayed there first in a tourist hotel there. I think we had been there three weeks before we actually went on this walking trip.

By Mr. Myron:

Q. My question was, were you employed at any time after you left the University?

A. After I left——

Q. (Interposing): Until you left Russia.

A. After I left the University I wrote numerous articles, if you want to call that employment.

Q. For whom did you write these articles?

A. I wrote one for a paper called the Moscow Daily News, which was so mascerated by the time it appeared it practically wasn't my article any more.

Q. That was part of the Russian press, is that right? A. Yes. It is in English.

Q. Did you submit this article to the press?

[3573]

A. Yes. I sent it on up to Moscow.

Q. And it was received?

A. It was received.

Q. And published under your name?

A. It was published under my name, but it was so re-written that it was practically unrecognizable.

Q. I didn't ask you that.

A. Well, I wanted to say that.

Q. Now, were you employed in any other capacity by the Russian press?

(Testimony of Robert M. MacGregor.)

A. I wrote some articles.

Presiding Inspector: Is that really a fair question? Was he employed by the Russian press or did he volunteer the article?

Mr. Myron: I think they published the article.

Presiding Inspector: You said "employed." It is confusing.

By Mr. Myron:

Q. Let me ask you definitely: Were you ever employed by the Russian press?

A. Not as—I was never hired—wait a minute. I wrote a number of—no, I guess you can't call it employment. I was never employed by the Russian Press.

Q. You are sure?

A. Except—well, I worked for an organization, a [3574] magazine, in Moscow, during that same period. I had about five or six jobs and I was hopping around like a Russian flea. I never was on the rolls of this magazine because they were extremely suspicious of me and would never clear my papers.

Q. What magazine was that?

A. It was called International Literature. I did a good deal of editing work and drew a regular salary from it.

Q. Isn't it a fact that you were one of the editors of this magazine?

A. It depends on what you call "Editor".

Q. You can answer that. You have been in the newspaper business and you know what an editor is.

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(Testimony of Robert M. MacGregor.)

Presiding Inspector: We don't know whether you can answer it or not, but you can try.

A. I will explain what I did, if I may, or I will even explain why it was that I was not on the rolls.

I went to Moscow with a great many letters of introduction; and one of those I had was from Mathew Josephson, the author of "The Robber Barons," and several other books.

Mr. Myron: That is not responsive to the question.

Presiding Inspector: I will take it.

Mr. Myron: I am willing to allow him to testify, but it is not responsive to the question.

The Witness: It will be, I think.

Presiding Inspector: Just a moment. Let us hear what the [3575] question was.

(The question referred to was read by the reporter as above recorded.)

Presiding Inspector: I will let him explain. Go ahead.

A. (Continuing): Anyway, I had several letters. I think possibly I had one from my immediate boss at Harcourt Brace. — H-a-r-c-o-u-r-t B-r-a-c-e.

Presiding Inspector: That is a publishing firm?

A. (Continuing): Whose name, if you want it, is Charles Pierce. He is now with Duell, Sloan and Pierce.

Anyway, he had some correspondence with a person named Walt Carmon in connection with translations, or possible translations of Soviet Literature,

(Testimony of Robert M. MacGregor.)

and Mathew Josephson not met, and I also had a letter from Malcolm Crowley, who had never met him, but had had some correspondence with him.

Carmon was the Editor of the English Edition of this International Literature.

Well, there were a couple of situations there, I believe, within the organization for political reasons, his own politics, or whatever you want to call it, within the organization, and he thought he ought to have an assistant, because the German and the French, and so on, all had fairly large staffs, and he was the only one in English.

Also, there was a considerable amount of detail work involved in the editing and in getting out of this magazine. It never seemed to get out on time.

Presiding Inspector: You are going far afield now. [3576]

The Witness: O.K.

Presiding Inspector: As a matter of fact, you were his assistant?

The Witness: I was his—but the point was that I was never officially his assistant. I went in every day and picked up proofs, and read proofs, and so on, and did the sort of—

Presiding Inspector: Was your name published on the magazine as an editor?

The Witness: I don't think so.

By Mr. Myron:

Q. By whom were you employed?

A. I was employed by Carmon himself, I think. At least, that is how I used to get my salary.

(Testimony of Robert M. MacGregor.)

Q. You received your salary from him?

A. I did a couple of times. Then I—I have forgotten how it was written into the books; but it may have been written in as payment for certain specified work, but I got it from the, after the first two times, and then I was paid four or five months, and I got it from the cashier of the—whatever the organization was.

Q. This was a Russian magazine, wasn't it, a magazine of the Soviet Government?

A. It is a magazine, I suppose, published by the Soviet Government since everything there is. It is a magazine about literature throughout the world, translations from Chinese, [3577] Japanese, from Danish, and many very famous writers have appeared in its pages, such as Romain Rolland.

Q. When I asked you whether you were employed at any time by the Communist Party did you have these two employments in mind?

A. No, because neither are the Communist Party.

Q. Soviet Government?

A. I think you can see the distinction yourself.

Q. Well, is this University a part of the Soviet Government?

A. Possibly as the University of Oregon is part of the Government of Oregon; rather in the same relationship.

Q. Then you would be employed by the Soviet Government if you worked in this University, is that right?

(Testimony of Robert M. MacGregor.)

A. That is right; along with one hundred and eighty million other people.

Q. Then you were employed by the Soviet Government as an instructor at this Government University?

A. I was employed by this University.

Q. Now, the paper, this magazine that you worked for, was controlled and dominated by the Soviet Party in Russia, was it not?

A. As I understand it, there is no such thing as a Soviet Party.

Q. What do you understand is the controlling government [3578] in Russia?

Presiding Inspector: We call it the Communist Party.

A. "Soviet" means "council."

Presiding Inspector: We have never had the word "Soviet Party."

Mr. Myron: Soviet Government—the Communist Party.

Presiding Inspector: If you can distinguish them.

By Mr. Myron:

Q. Well, it was controlled and dominated by the Communist Party in Russia, was it not?

A. What was?

Q. This magazine that you wrote for, edited.

A. If you are willing to say that everything in Russia is dominated by the Communist Party I would say it was, and—

Q. (Interposing) Wait a minute.

(Testimony of Robert M. MacGregor.)

Mr. Grossman: Let him answer.

Presiding Inspector: Yes.

A. (Continuing) It was published by an organization in Russia and I can't—it was the cultural—some sort of a cultural organization but I can't remember the name of it.

By Mr. Myron:

Q. Do you know whether it was owned and operated by the Communist Party of Russia?

A. I know that the man who was the chief of it, chief of the organization, and the chief editor of all the editions, [3579] whose name was Dinamof—D-i-n-a-m-o-f—I think it is—whom I only met a couple of times, he was a Communist at that time and was later, I was told, arrested or prosecuted as a Trotskyist.

Q. You say you were married—

A. (Interposing) I was married in Moscow.

Q. To whom?

A. Her name is Emma Louise Davis.

Q. Was she a Russian girl?

A. No. She comes from California.

Q. Did you travel to Russia with this girl?

A. No. She came later.

Q. Where were you married?

Presiding Inspector: In Moscow, he said.

A. I was married in a Marriage Bureau in Moscow and later it was registered at the American Embassy, the next day or the same day; the same day.

(Testimony of Robert M. MacGregor.)

Q. Is that the only time that you have left the United States?

A. No. I left it a number of times. You mean, for instance, going into Canada?

Q. Left the continent.

A. No. I have been abroad twice before.

Q. When—once to China and once to Russia, is that right? [3580]

A. That was the same trip to China and Russia. I went to a town called Tours, in France. I spent a summer at the Extension University of Poitiers—P-o-i-t-t-i-e-r-s.

Presiding Inspector: Just one "t."

A. (Continuing). Another summer I spent in—well, I traveled in a number of countries during these summers, but I spent most of this summer in a little town in the corner of Tuscany, in Italy, studying Italian.

Mr. Myron: May we have a short recess?

Presiding Inspector: Yes.

(Whereupon a short recess was taken.)

By Mr. Myron:

Q. I believe you said that you represented the Intourist?

A. I didn't say I represented them. I think you are mistaken.

Q. Were you employed by them?

A. I did certain odd jobs for them.

Presiding Inspector: That is a travel agency of the Soviet Government?

The Witness: Yes—a foreign travel agency.

(Testimony of Robert M. MacGregor.)

Presiding Inspector: I think we have had something about that from Mr. Gitlow. That is my impression.

By Mr. Myron:

Q. You knew that was a Communist organization, didn't you? [3581]

A. I wouldn't say it is any more a Communist organization than anything else in Russia.

Q. Were they the representatives of the Communist Party in the United States?

A. Never heard of it.

Q. Did you hear that they were prosecuted in Washington, D. C.?

A. No.

Q. While you were an instructor at this Russian University were there any American students attending the University?

A. I can't say as far as the University was concerned. It is very large. I had no—obviously, I would have no American students in my classes.

Q. Did you know of any American students coming from America attending the University while you were an instructor there?

A. The University of Moscow?

Q. That is right.

A. I am pretty sure there were some, but I don't think I knew them, at least in the University of Moscow.

Q. Did you teach at the Lenin School?

A. No.

Q. Do you know where the Lenin School is in Russia?

(Testimony of Robert M. MacGregor.)

A. Not as such. It seems to me that I remember hearing about a Marx-Lenin-Stalin Institute, or something like that.

Q. Was that in Moscow? [3582]

A. It seems to me it is in Moscow.

Q. Was it a part of this University?

A. No; separate, I am pretty sure.

Q. Did you consult with any members of the Russian Embassy, or Consulate offices in the United States before traveling to Russia?

A. I went around to the Soviet Consulate in New York, but I can't remember who was there, I can't even remember much about the building. I talked to some, evidently, rather minor official who told me that the way I was going to Russia I would probably have difficulties in that I was going on a tourist visa, and that they were loath in Russia to change these visas.

Q. Did you receive a clearance from the Russian Consul?

A. I don't think so; no. What do you mean by "clearance"?

Q. Don't you know?

A. What do you mean by "clearance" in this case?

A. Did you receive permission of the Russian Consul in the United States—

Presiding Inspector: You mean a visa?

A. I received a visa; yes.

Presiding Inspector: That is all a person gets. Anyone will take judicial notice of that.

(Testimony of Robert M. MacGregor.)

By Mr. Myron:

Q. Did you receive any letters from the Russian Consular [3583] Office?

A. No, I didn't.

Q. In the United States?

A. No.

Q. No letters at all?

A. Not as far as I know.

Q. No introductory letters?

A. No introductory letters.

Q. You are sure of that?

A. I had a letter to somebody in the Consulate there and I don't think I saw him.

Q. I am asking you if you received any letters from the Consular office in the United States addressed to anybody in Russia?

A. I don't think so.

Q. Do you know?

A. I can't remember everything I took with me, but I think it is fairly safe to say "No."

Q. You are sure of that?

A. If I had—no, I certainly didn't—you say from the Consulate?

Presiding Inspector: What he wants to know is whether you had any documents you took with you from any officials of the Soviet Government in this country, from the Ambassador, or any of his staff, or from any of the Consuls anywhere, except [3584] the visa?

A. I think not. As I say, I was there, as I remember, in the Soviet Consulate in New York for not more than 15 minutes.

(Testimony of Robert M. MacGregor.)

Presiding Inspector: Getting your visa?

The Witness: No. That was considerably before I went to Russia. I went there to inquire about the various—they have two different kinds of visas and I heard about that, and how one got them. I didn't get my visa myself. I think a travel agency—

Presiding Inspector: Intourist got it?

The Witness: No; some travel agent in New York.

By Mr. Myron:

Q. Did you obtain your appointment to this University before you left the United States?

A. No, I didn't.

Q. Did you receive a promise from anybody connected with the Russian government, or the Communist Party, that you would obtain this job as an instructor at this University before you left the United States?

A. No, sir.

Q. What kind of a visa did you obtain?

A. I obtained what is known as a Tourist Visa, which comes with—you buy a tour with Intourist, and you get with that a tourist visa for about the length of time of your tour. [3585]

That was later changed into a—I don't know exactly what you call it. In Russian it is called "Vid Najitilstuo."

The Reporter: Spell it.

The Witness: I don't know as I can. Can we leave that out of the record?

Presiding Inspector: Write it in Russian characters and give it to the Reporter.

(Testimony of Robert M. MacGregor.)

(The name referred to was written on a slip of paper by the witness, as requested, and handed to the reporter; the name being spelled as indicated in the above answer.)

By Mr. Myron:

Q. What type of visa is it?

A. It is what all foreigners in Russia have to hold. I think the original one I had was renewable in three months. You have to renew it about every six months, or something of that sort.

Q. Are you allowed, under this temporary visa, to have employment in Russia?

A. Under this type of visa you are not allowed, as I remember, to have formal employment.

Q. Would you consider your position in the University as formal employment?

A. When I got the position in the University the University changed my visa.

Q. That was the reason for the change in your visa, is [3586] that right?

A. That is right. In order to have your passport changed—you have to have it changed—in order to have your passport changed you have to have some organization which will sponsor you or sponsor it.

Q. And it was the officials of this University that sponsored that change, is that right?

A. As I recall it was not exactly what you would call the officials. It was the head of my section; a mad little woman who kept running around like bees around a hive. I can't even remember her name.

(Testimony of Robert M. MacGregor.)

Q. Is that describing the woman?

A. Yes, sir.

Q. Her official position, you mean?

A. Your wit amuses me.

Mr. Del Guercio: I move that that be stricken out.

Presiding Inspector: I think it was justified by the question. I will let it stand.

Mr. Myron: I asked for the woman's official position.

Presiding Inspector: He described the woman to you as a mad little woman who kept running around like the bees around a hive.

Mr. Myron: That isn't describing her official position.

Presiding Inspector: You have her official position.

Mr. Myron: I am asking for her official position.

[3587]

Presiding Inspector: He already said she was the head of his section.

Do you want the Russian name?

Mr. Myron: I am asking for a further description, if that is his answer to the question.

Presiding Inspector: Didn't you hear his answer to that?

Mr. Myron: I did not.

Presiding Inspector: Probably we have gotten into a misunderstanding. But he said she was the head of his section or division, I don't know which.

(Testimony of Robert M. MacGregor.)

By Mr. Myron:

Q. What was your section or division of which she was the head?

A. Well, I don't know of any official name for it. It was within the Electro-Technical Institute. I think it was a section for the teaching of English.

Q. And she was the head of the department, is that right?

A. It wasn't precisely a department; it only had about three members, people, in it.

Q. What was her official position?

A. She was above me and that is all I know.

Q. And she secured this change in visa?

A. Well, I don't know who all it went through. You know in Russia everything has to be done with papers that have [3588] to be stamped, and I probably wasn't able—

Q. (Interposing) What did she have to do with the change?

A. She obviously—

Q. (Interposing) Do you know,—not “obviously”,—what she did?

A. She possibly went to the head of the—

Q. (Interposing) Do you know,—not “possibly?”

A. (Continuing)—of the University.

Q. I am asking you for your own knowledge of what she did.

A. All I know is she gave me a paper, which I took to the, whatever it is, the passport division in Moscow, and after a period of a number of days I was issued one of these Vid Najitilstuo.

(Testimony of Robert M. MacGregor.)

Q. Did you request her to do this?

A. Certainly. I might say that this other organization, International Literature, would not sponsor me for a change in visa.

Q. Did they teach Communism at this University?

A. Not in my classes.

Q. At the University?

Presiding Inspector: If he knows. We can almost take judicial notice of it.

Mr. Myron: If he knows.

A. It would depend on what you mean by "Communism." I [3589] am sure they taught all the things that they teach in all their universities, and so on.

By Mr. Myron:

Q. Do you have your own definition of Communism?

A. No. Do you?

Presiding Inspector: We must not do that.

Mr. Del Guercio: If your Honor, please, I don't think that is proper.

Presiding Inspector: I have ruled it was not proper. [3590]

Mr. Myron: If the witness wishes to assume that attitude——

The Witness: (Interposing) What was the original question?

Presiding Inspector: We don't need any instruction from you, or the witness doesn't.

Now, you may answer the question. Go ahead.

The Witness: What was the question, please?

Presiding Inspector: Read the question.

(Testimony of Robert M. MacGregor.)

(The question referred to was read by the reporter as above recorded.)

A. Well, the question is, then, do I have a definition of Communism? I have thought I had at various times and maybe I am a poor judge, or a poor procrastinator because most of my definitions seem very soon to be upset.

By Mr. Myron:

Q. Well, in accordance with your definition did they teach Communism, as you understood it, at the University?

A. They taught what is—as I—Communism is one of these—

Q. (Interposing) Well, as you understood Communism, did they teach it at the University?

A. Well, what I thought was Communism at that time they undoubtedly taught. I think that Communism is taught not only in special classes—I didn't know of any special classes where Communism was taught there, but it permeates a good deal of the teaching of history and that sort of stuff. I gather. [3591]

Mr. Myron: Now, I think the—

Presiding Inspector: (Interposing) I don't think that is what Mr. Myron meant.

The Witness: Oh, were there any classes?

Presiding Inspector: I think he meant was there instruction in what we generally know as Russian Communistic doctrine—never mind the shades—with the idea of impressing the students with the soundness of their political philosophy.

(Testimony of Robert M. MacGregor.)

The Witness: I think undoubtedly that there was that type of instruction.

Presiding Inspector: That is what you meant, wasn't it, Mr. Myron?

Mr. Myron: Yes, sir.

Presiding Inspector: I tried to make it clear.

Mr. Myron: That was very clearly put.

By Mr. Myron:

Q. Now, I believe it was your testimony that the basis for your conclusion that Wilmot's character and reputation in the community for truth and veracity is bad is based on conversations which you had with about eight or nine people?

A. Yes, that is right.

Q. Now, is that the same basis for your conclusion that you would doubt Mr. Wilmot under oath?

A. That is right. [3592]

Q. And you don't know Mr. Wilmot?

A. I don't; I don't think I do.

Q. You never saw him, as far as you know?

A. As far as I can remember, yes.

Q. Are you a member of the, or have you at any time been a member of the American League for Peace and Democracy?

A. No, I haven't.

Q. Are you now or have you ever been at any time a member of the League Against War and Fascism?

A. No.

Q. Are you now or have you at any time been a member of the American Youth Congress?

A. No.

(Testimony of Robert M. MacGregor.)

Q. Are you now or have you at any time been a member of the Young Communist League?

A. No.

Q. Are you now or have you at any time been a member of the Friends of the Soviet Union?

A. I am certainly not now. I think I joined just before I went to Russia, in Boston. The person who urged me to join was going to give me some letters of introduction and, I think, I may have joined it at that time.

Presiding Inspector: You think you did?

The Witness: I think I gave him a buck, or something like that, and he gave me a card. [3593]

By Mr. Myron:

Q. Now, what was the date?

A. What is the date?

Q. Of your membership in that organization?

A. I have not said exactly that I am a member of the organization. I vaguely remember having had some conversation about it anyway, and that would have been, probably when I was staying with my sister in Weston, sometime around Christmas, 1934.

Q. Are you still a member?

A. No, obviously not.

Q. Well, did you leave the organization?

Mr. Grossman: Just a moment!

I think that question is improper because the witness has made it clear he isn't sure he was a member. I don't think there is any basis for questions—

Presiding Inspector: (Interposing) Did you take any formal steps to disconnect yourself with

(Testimony of Robert M. MacGregor.)

the organization? I will take it in that form.

The Witness: No. If I ever was a member of it I wouldn't even know it existed today.

Presiding Inspector: You didn't know anything more about it after having this conversation and getting this card, if you did get a card?

The Witness: Yes, sir. [3594]

By Mr. Myron:

Q. Now, as I remember it, one of the persons with whom you talked in regard to Wilmot's character and reputation was a man by the name of Newberger. A. Yes.

Q. You knew Newberger, is that right?

A. Yes, I know him today.

Q. And you are positive now that you talked with him in regard to Wilmot's character and reputation? A. I can even remember the time.

Q. Well, now, are you positive that you have talked with him in regard to Wilmot's character and reputation?

A. I would like to say that—

Presiding Inspector: (Interposing). You can answer that, I think.

The Witness: Yes, I am positive.

Mr. Myron: That is all.

Presiding Inspector: Any further questions?

Mr. Grossman: Just a few questions.

Redirect Examination

By Mr. Grossman:

Q. Do you have any difficulty with—excuse me. Withdraw that.

(Testimony of Robert M. MacGregor.)

What did you teach at this Electro-technical, or whatever this institution was, in Moscow?

A. I started out to teach—somebody else had been [3595] teaching this course and it had proved unsatisfactory. Well, I think it was the 18th and 19th centuries of English Literature and I also had a class in advanced composition. After a couple of my lectures or it may be even after one of my lectures on the 18th and 19th centuries. I was—there was a great to-do. I was told almost immediately that I was incompetent to teach there because I did not understand their Marxian approach to literature and they didn't like the things I was saying about such people as Stern and Smallot, and I didn't have an economic—I had an aesthetic approach, not an economic approach to the subject.

Q. Did you continue teaching the subject of literature or English Literature?

A. No, I was relieved of that and given more work in teaching merely composition which requires no political point of view.

Q. Were you relieved because of the criticism that had been made of what you were teaching in English Literature?

A. I was removed—

Mr. Del Guercio: (Interposing) If your Honor please, I object to that as being leading, not proper

Presiding Inspector: (Interposing) I will take it. It is leading, of course, but I will take it.

Mr. Del Guercio: Suggestive.

(Testimony of Robert M. MacGregor.)

The Witness: I was relieved obviously because of—

Presiding/ Inspector: (Interposing) Very collateral. [3596]

Mr. Del Guercio: What?

Presiding Inspector: Very collateral.

The Witness: Because of the criticism both by students and others, and faculty members, but it was—I talked it over with them and explained that I knew nothing about their theories and so on, and so I was—so I left at that—I took more work in composition, as I say.

By Mr. Grossman:

Q. Before you left the United States to go to Russia what kind of a visa were you trying to get from the Russian Government?

A. There is what is called, I believe, a Consular visa, issued to certain foreigners, usually that the government wants to have there such as engineers and so on, and I knew of such a visa. The visa, evidently, is only really an entrance visa. As soon as you got there it has to be changed. And I thought that possibly because I had had a good deal of experience editing and writing and in publishing that I might be issued such a visa but I was told by, whoever it was that was there—and I can't even remember what he looks like—that such a visa would be out of the question for me. It was for engineers and technical advisors and so on.

Mr. Del Guercio: If the Court please, I move

(Testimony of Robert M. MacGregor.)

the witness' answer be stricken as not responsive to the question. The question was what type of visa were you seeking.

Presiding Inspector: It was not altogether responsive [3597] but I will let it stand.

Mr. Grossman: I can ask another question to bring it in so we might as well leave it there.

Presiding Inspector: I don't see it is very material anyway.

By Mr. Grossman:

Q. While you were in Russia did anything occur which indicated that the Soviet Government did not trust you?

Mr. Del Guercio: I object to that, if your Honor please, as being too general, not proper redirect, and also suggestive.

Presiding Inspector: I think I will take it.

Mr. Del Guercio: What?

Presiding Inspector: I think I will take it. The whole part of the cross examination with respect to the trip in Russia was to show the intimacy of the relationship of this witness with the Soviet Government and the Communist Party, and so I think I will take this.

Mr. Del Guercio: May I—

Presiding Inspector: Yes.

Mr. Del Guercio: It was only done for the purpose of showing what employment he had, if the Court will recall.

Presiding Inspector: But it went very far.

Mr. Del Guercio: The witness here did not at

(Testimony of Robert M. MacGregor.)

first re- [3598] collect being employed there in the University and then he——

Presiding Inspector: (Interposing) No, he never said he was not employed in the University.

Mr. Del Guercio: Well, he didn't at first say so. The record will show that he only recollected being employed after some thought.

Presiding Inspector: I don't so remember the testimony.

Mr. Grossman: He merely denied being employed by the Communist Party.

Presiding Inspector: I don't remember such testimony. It may be there.

Mr. Grossman: Do you remember my question?

The Witness: No. Could you read the question back to me?

Presiding Inspector: I will take it. I will re-state it.

Did something occur which showed lack of confidence of the authorities toward you?

The Witness: Well, quite a number of things occurred. I can think off-hand of one example. This woman with whom I did the translation——

Mr. Del Guercio: May I interrupt? I don't think the question calls for that.

By Mr. Grossman:

Q. All right, give your first example. [3599]

Presiding Inspector: No, it doesn't.

Mr. Del Guercio: I will object to giving any example.

Presiding Inspector: I will take it.

(Testimony of Robert M. MacGregor.)

A. This woman with whom I did the translation—her husband had a job of some sort in the planning division of the Soviet Government and was very suspicious of his wife who was slightly rattle-brained.

Presiding Inspector: This is the same bee-hive lady?

The Witness: No, this is another one. The bee-hive lady was not rattle-brained exactly, but he somewhat *disproved* of most of her friends. And then we were going to do some more translation later—not that I would have had the time by then—but she told me that it was out of the question for her to work with me. Somebody had told her husband, and I gathered it was probably the secret police, or something of the sort, that I had been seen riding around with members of, in cars with members of the American Embassy, which was perfectly true, and that seemed to make them suspicious, that I was untrustworthy. Furthermore, they—well, I think this example at the University there—

Mr. Del Guercio: (Interposing) Well, if your Honor please, counsel asked for one example. Now, he has given one and I move that all of the witness' answer be stricken. We don't want any stories here. [3600]

Presiding Inspector: We have gone pretty far on the cross examination.

Mr. Del Guercio: I know, but every time—

(Testimony of Robert M. MacGregor.)

Presiding Inspector: (Interposing) How long have we taken on cross examination?

Mr. Grossman: I think it is quite obvious—

Presiding Inspector: (Interposing) I will take it. We don't have to have any discussion about it.

By Mr. Grossman:

Q. All right, can you give another example?

Presiding Inspector: You have given one—you have given two.

The Witness: Yes. Within the organization International Literature, as I say, I was in constant turmoil trying to get them to take the responsibility for my visa and so on, and finally it was just about to come through—it was in September, 1935—and that they would take the responsibility of my visa, and, therefore, I wouldn't continue possibly teaching at the University because the University job, although it paid fairly well, the main thing about it to my advantage was that it gave my my visa. Anyway, it was just about to come through and we thought everything was settled and the papers were stamped and so on and I was to come around tomorrow. I came around the next day and I was told it was all off, they would not sponsor me, that my political record was not good [3601] enough for them to sponsor me. In fact, they indicated that they wouldn't even possibly continue with me in the organization as this rather informal assistant.

Mr. Del Guercio: I move that the witness' answer be stricken as not responsive.

(Testimony of Robert M. MacGregor.)

Presiding Inspector: I will let it stand. It was not fully responsive but I will let it stand.

By Mr. Grossman:

Q. When you were asked a question about Richard Newberger, whether he had ever discussed Wilmot's character with you, you wished to add something, I assumed, to clarify or give detail to your answer. Do you still wish to do so? What was that you wished to add?

Mr. Del Guercio: If your Honor please, there was no indication that the witness wished to add something. He was asked plain questions as to whether he did discuss that with Mr. Newberger and his answer, you will probably recall, was "Positively."

Presiding Inspector: Yes, positively.

Mr. Del Guercio: Now, there is nothing further to explain on that as counsel suggests.

Mr. Grossman: That was not his first answer, as your Honor will recall. He said—I believe he said "Might I say this about it", or something like that, and he was told [3602] that he had to answer it and he did answer it.

Presiding Inspector: I think there was some indication that he wanted to add something to the "positively". I will let him do it.

The Witness: I was merely going to say that Newberger was at my house in Portland, the one over on Waverly Heights, if you remember, and—

(Testimony of Robert M. MacGregor.)

Mr. Del Guercio: (Interposing) What?

Presiding Inspector: He was at his house.

The Witness: There were a number of people at the house and it was a sort of spontaneous—became very fast a spontaneous party; people were dropping in and Newberger and I—this was the first time I had ever seen him, but he was—he works, writes articles for Collier's Magazine, and Walter Davenport, who is one of the editors of Collier's, is an old friend of mine, and he had—

Mr. Del Guercio: (Interposing) If your Honor please, I will object to this. We are getting into a story again.

Presiding Inspector: Yes, we are.

Is there really any point to this?

The Witness: I mererly wanted to give the circumstances. We, as I remember, were out in the kitchen discussing a great many things and Wilmot—he mentioned Wilmot somehow or other and told me certain things.

Mr. Myron: I object to any conversation. [3603]

Presiding Inspector: I really don't believe there is anything in that answer.

Mr. Grossman: Your Honor, you see I didn't know what there was. All I know, the witness—

Presiding Inspector: (Interposing) You don't think there was anything either?

Mr. Grossman: Well, there is more detail. If counsel for the Government wants detail, I think they ought to have the detail that hurts them even though they try to cut it short.

(Testimony of Robert M. MacGregor.)

Mr. Myron: We haven't asked for detail. The witness voluntarily, every time he is asked a question, tells a story.

Presiding Inspector: He isn't unique in that respect. We have had it from the beginning of the case to the——

Mr. Grossman: (Interposing) I don't think this point should be dwelt on at all, if your Honor please. It isn't important enough.

Presiding Inspector: I think not. I think you have got all you need.

Mr. Grossman: No more questions.

Mr. Myron: Just one question.

Recross Examination

By Mr. Myron:

Q. This woman that you spoke of who stated to you that [3604] she couldn't any longer employ you, who was she?

A. Did I mention a woman?

Q. Yes. A. In connection with that?

Q. Well, did you?

Presiding Inspector: This was the one with the jealous husband?

The Witness: I might say she was not employing me. I object to that word somewhat.

By Mr. Myron:

Q. Well, didn't you state that as a result of a conversation with her that she no longer employed you?

A. I didn't say "employed". I said she no longer could work with me.

(Testimony of Robert M. MacGregor.)

Q. You were working with her?

A. We were working on a sort of cooperative basis, she translating into English and I putting it into good English.

Q. Now, when was this? Was this the woman that you worked with immediately after your arrival in Russia? A. That is right.

Q. And as a result of this incident she stated to you that she could no longer work with you?

A. Yes, that is right.

Q. And as a result of that you got the impression that you were not in the good graces of the Communist Party? [3605]

A. Well, I gathered I was being followed or something of the sort.

Q. Now, subsequent to that you obtained employment as an instructor in the University of Moscow, is that true?

A. I would like to recapitulate——

Q. (Interposing) Well, now, answer that question. Was it subsequent to that time?

A. I was already an instructor by that time.

Q. You continued as an instructor in the University, is that right?

A. That is right, sure. I might say they don't trust all their 157,000,000——

Mr. Del Guercio: (Interposing) That is voluntary, if your Honor please.

Presiding Inspector: Strike it out; strike it out. Don't volunteer. The next question.

The Witness: I am sorry.

(Testimony of Robert M. MacGregor.)

Mr. Myron: That is all.

Mr. Grossman: That is all.

The Witness: Well—

Presiding Inspector: You are excused.

The Witness: Well—

Presiding Inspector: (Interposing) No, you are excused.

(Witness excused.)

Mrs. King: If your Honor please, before we call the [3606] next witness we would like to have a consideration, if we may, of this problem of character evidence because it presents a problem in the securing of future witnesses. We believe that the general—

Presiding Inspector: We will not accept direct general character evidence of good character where there has not been direct character evidence of bad character.

Mrs. King: In that connection may I call to your Honor's attention a case which I just recently unearthed of Edgington against United States which is 164 U.S.—

Presiding Inspector: (Interposing) I am talking about character for truth and veracity.

Mrs. King: Yes. Well, could we broaden the thing on to the general problem of general good character?

Presiding Inspector: I haven't ruled on the general character. Of course, you can't produce evidence of that character of a witness, but in respect

to a defendant in a criminal case you may also show evidence of good character.

Mrs. King: Yes, and now——

Presiding Inspector: But this is not a criminal case, though.

Mrs. King: Yes, and that is what the problem is, of expanding the rule of criminal cases.

Presiding Inspector: No. [3607]

Mrs. King: Into a case of this character.

Presiding Inspector: No, I couldn't do that because it doesn't make any difference. We can consider here that the Alien here is a man of the very best character—it has not been attacked—and he still may have—be subject to the penalties of this particular Act, with which we are interested, and still be a saintly individual.

Mrs. King: Well, with reference to its not yet having been attacked——

Presiding Inspector: I don't say it is necessarily so, but that is possible.

Mrs. King: The case of Edgington against the United States distinctly states—which was, of course, a criminal case——

Presiding Inspector: Yes.

Mrs. King: That evidence of good character is admissible even though the defendant doesn't testify and his character is not attacked.

Presiding Inspector: Well, of course, in a criminal case you may also show that the defendant is a person of good character because that raises the possibility within the decision of the trier of the facts that crime is not being committed by him, and

in the Bonier case in New York they held that that alone was sufficient as a basis for a finding of reasonable doubt. [3608]

Mrs. King: Now, it seemed to us that in view of the highly penal character of deportation proceedings that it was appropriate that evidence of good character was admissible in such a proceeding, especially in view of the evidence introduced at the opening of this hearing as to the kind of person that a Communist was.

Presiding Inspector: Well, we will just hold it. I won't receive it now. Go ahead.

Mrs. King: Well, the problem is not a problem of holding at this moment. The problem is whether we shall subpoena any witnesses or present any witnesses dealing with this problem.

Now, we had witnesses prepared for last week on it. At that time your Honor ruled that it was inadmissible.

Presiding Inspector: I didn't rule on it. I ruled that evidence of character of the truth and veracity was not admissible. I didn't rule on the broader question.

Mrs. King: Well, at this time we are asking for a ruling. We may not get it this morning, but the problem is of getting it with reference to the securing of further witnesses so that we may have character witnesses lined up.

Presiding Inspector: You want to prove independently that the Alien is of good character?

Mrs. King: Yes, sir.

Presiding Inspector: What do you say about that, Mr. [3609] Del Guercio?

Mr. Del Guercio: We object to that, if your Honor please. The question should not be decided at this time.

Presiding Inspector: I don't see that it is pertinent.

Mr. Del Guercio: This is not, as the Court stated, a penal proceeding.

Presiding Inspector: No such testimony was offered on the previous hearing?

Mrs. King: No; the only testimony that was offered was as to truth and veracity.

Presiding Inspector: As to truth and veracity.

Mrs. King: Of course, it has been quite generally allowed in the Immigration Service; in cases particularly in Portland——

Presiding Inspector: (Interposing) Very likely without objection.

Mrs. King: I think that is quite possible, your Honor.

Presiding Inspector: There is an objection here. I can't make a ruling in the air, but my impression is that it will not be allowed if objection is made. Of course, it is open to the Government counsel to permit that, and if they wanted to have you allowed to introduce that, why, of course, the Presiding Inspector has no objection.

Now, let's have the next witness.

Mr. Del Guercio: Is this the witness?

Mr. Grossman: Yes, will you step up? [3610]

Presiding Inspector: Raise your right hand.

GEORGE A. GRAHAM

called as a witness on behalf of the Alien, being first duly sworn, testified as follows:

Presiding Inspector: Give your name and address to the reporter.

The Witness: George A. Graham, 938 North Palm Street, Anaheim, California.

Direct Examination

By Mr. Grossman:

Q. Mr. Graham, are you now connected with the Associated Farmers of California?

A. With the Associated Farmers of Orange County.

Q. That is an affiliate of the Associated Farmers of California, is it?

A. There is one member of the Associated Farmers of Orange County that represents the county with the state organization.

Q. Are you that member at the present time?

A. No, sir.

Q. What is your present position, if any, with the Associated Farmers of Orange County?

A. Secretary.

Q. How long have you held that position?

A. Since August first, 1937.

Q. At any time since then were you the delegate or [3611] representative of your county unit to the state body? A. No, sir.

Q. Do you know a man named Richard St. Clair? A. Yes, sir.

(Testimony of George A. Graham.)

Q. When did you first meet him?

A. About two years ago.

Q. What were the circumstances surrounding your first meeting him?

A. A friend of mine by the name of S. H. Strathman got in touch with me from San Francisco and said there was a party in San Francisco who had belonged to the Communist Party—

Q. (Interposing) I beg your pardon. A party from San Francisco or in San Francisco that had belonged?

A. In San Francisco that had belonged to the Communist Party and had dropped out, and because of some of the things that he was fighting was being persecuted in getting work.

Presiding Inspector: In what?

The Witness: In getting work, in finding employment. In fact, the man was afraid of his life. The man wanted to get out in the country to find work. And he asked me, as a personal favor to Mr. Strathman, if I would find him work out in the country. I told him that as soon as I had time I would try to find him employment. A few days later I heard from Mr. Strathman that this party by the name of Richard [3612] St. Clair had gone to Los Angeles and was waiting for me to take him out in the country to find work. I happened to be in Los Angeles that very day, I believe, and picked up Mr. St. Clair and took him to Orange County.

(Testimony of George A. Graham.)

By Mr. Grossman:

Q. When Mr. Strathman first communicated with you was it by telephone or telegraph or mail?

A. (No response).

Q. When he first communicated with you on this question of St. Clair?

A. I think that was by phone.

Q. He was in San Francisco?

A. I don't remember.

Q. Where were you?

A. I was in my office in Orange County. Mr. Strathman was covering the State, and I don't remember just where he was.

Q. What was his position at that time in the Associated Farmers?

A. Field Secretary for the State, Associated Farmers of California.

Q. What was your business at that time?

A. I was Secretary of the Associated Farmers of Orange County.

Q. No; your business? Was that your sole business at that time?

A. That is right. [3613]

Q. It was a full-time job?

A. Yes, sir.

Q. For which you got paid?

A. Yes, sir.

Q. What is your business now?

A. The same.

Q. How long have you held a full-time position with the Associated Farmers or any county unit?

A. Since August first, 1937.

Q. Now, the second time Mr. Strathman got in

(Testimony of George A. Graham.)

touch with you what method of communication did he use?

A. It is quite a while ago; I don't recall. I suppose it was by phone.

Q. You were then at your home also, or your office?

A. Yes, sir.

Q. Did you find employment for Mr. St. Clair?

A. Yes, sir.

Q. What kind of employment was it?

A. Regular farm work, laborer.

Q. And who was his first employer?

A. Clarence Brown, San Juan Capistrano.

Q. Did you arrange this matter with Mr. Brown?

A. Yes, sir.

Q. Do you happen to know how long Mr. St. Clair worked for Mr. Brown?

A. Well, as I remember, it was, oh, six weeks or two [3614] months.

Q. Do you happen to know how he happened to sever his employment at that time?

A. I know what Mr. St. Clair told me, that he was going to Los Angeles. He said that he missed his newspapers and his movies, and he was located way out in the country with no transportation, and he missed those — what enjoyment he got out of those.

Q. After you took Mr. St. Clair to Mr. Brown and arranged his employment when did you next see him?

A. Oh, I saw Mr. St. Clair maybe five or six times during the period that he was working there.

(Testimony of George A. Graham.)

Q. What was the occasion for seeing him those other times?

A. Mr. Strathman asked me to find this man work as a personal favor and when I was in that vicinity I just dropped in to see how he was getting along.

Q. When Mr. Strathman talked to you on the telephone, or rather, when he got in touch with you about getting Mr. St. Clair employment on either of those two occasions did he mention Bridges or the Bridges case or any possible deportation proceedings against Bridges?

Mr. Del Guercio: Well, that is a leading question, if your Honor please. There is no evidence here that he did. [3615]

Presiding Inspector: I don't see how it is material. He may answer it yes or no.

A. Your question was, the first—at first did he mention Bridges?

By Mr. Grossman:

Q. The first two times that Mr. Strathman got in touch with you did he mention Bridges in any way? A. No, as I recall it he did not.

Q. Did he state why he was going so far to help a man—withdraw that.

Did he state whether he had any personal or other interest in getting Mr. St. Clair employment?

Mr. Del Guercio: I will object to that, if your Honor please, as being suggestive, no foundation laid for the question.

Presiding Inspector: Of course, it is. I think

(Testimony of George A. Graham.)

that the objecting counsel would suggest, perhaps, that you ask him if he gave any reason why he wished him to be employed.

Mr. Grossman: All right.

By Mr. Grossman:

Q. Did he give you any reason why he wished you to obtain employment for Mr. St. Clair?

A. Our organization is interested in subversive activities.

Q. Are you going to state what he told you?

[3616]

A. Yes, sir.

Presiding Inspector: No. Did he give you any reason?

The Witness: Yes.

Presiding Inspector: He did?

The Witness: That must be understood.

Mr. Grossman: All right.

The Witness: Mr. Strathman said that he prepared a news release for a San Francisco paper, I believe, and in this release he mentioned labor disturbances in agricultural fields and mentioned names and dates. He said a couple of days after that he received a letter from a man by the name of St. Clair stating that Mr. Strathman was absolutely correct and asking permission to come and see him. That was done, and through that connection, I think, they met, perhaps, three or four times—I don't know—a few times anyhow and established, not a friendship, perhaps, but a contact and Mr. Strathman just offered to try and find him work.

(Testimony of George A. Graham.)

By Mr. Grossman:

Q. „Do you know, or did Mr. Strathman tell you why he chose your county as the place for Mr. St. Clair's employment?

A. It happens that Mr. Strathman was Secretary of the Associated Farmers of Orange County before he was promoted to the State. He knew Orange County, perhaps, better than any other county in the State. He knew that Mr. Brown and two or three of the others at that time of the year were putting on [3617] many workers and he thought there would be—perhaps, there would be the best chance in Orange County. Then, too, he wanted to get him away from San Francisco, and Mr. St. Clair wanted to get away from San Francisco.

Q. Did you ever discuss with Mr. St. Clair his reporting on the activities of unions among workers?

A. No, sir.

Q. Did Mr. St. Clair ever report to you or any one, to your knowledge, on the activities of unions among agricultural workers?

Mr. Del Guercio: If the Court please, I will object to the question as not being material to the issues in this case.

Mr. Grossman: Your Honor, in the first place, the general purpose of this examination is to show how it happened that a non-governmental agency produced Mr. St. Clair. Now, the relevancy of the particular question I am asking is this:—

(Testimony of George A. Graham.)

Mr. Del Guercio: (Interposing) If the Court please, before he goes on that, I would like to challenge that statement, that a non-governmental agency produced St. Clair. The Government produced St. Clair.

Presiding Inspector: I think the remark was not founded on anything in the evidence, that I have heard of.

Mr. Grossman: Your Honor, I am not attempting to summarize the evidence. I said the purpose of this examination—and Mr. Del Guercio will have ample opportunity on cross examination— [3618]

Presiding Inspector: (Interposing) I will exclude the question.

Mr. Grossman: I haven't stated the specific reason for this question.

Presiding Inspector: I don't care whether you have or not. I can't permit you to make statements which are not in any way justified by the evidence.

Now, the last statement that you made as far as I can remember, has no foundation in the evidence.

Mr. Gladstein: As I remember it, your Honor, Mr. St. Clair testified that on the immediate occasion when he went down to the FBI he went there because Mr. Graham came to him and asked him, or arranged for him to go there.

Presiding Inspector: That may have been, but that was not your inference, but that they were

(Testimony of George A. Graham.)

produced here as witnesses by some other agency that is under the control of some other agency.

Mr. Gladstein: I meant to use—I don't know if I used the word—"procure" which doesn't mean they produced them in Court—it neved does—but they were brought to the Government agency who produces them in Court by a non-governmental agency.

Mr. Del Guercio: If the Court please, that is not a correct statement.

Presiding Inspector: Never mind. I have ruled in your [3619] favor so far.

Now, I will let you re-phrase the question. Now, what is it you want?

By Mr. Grossman:

Q. To your knowledge, did Mr. St. Clair ever report, when he was working in Orange County, ever report on the activities of unions among agricultural laborers?

Presiding Inspector: How is that material?

Mr. Grossman: If Mr. St. Clair operated at that time or any time as a labor spy, an informer, we say—

Presiding Inspector: (Interposing) Yes, but you don't go anywheres near showing he was a labor spy. Do you want to show he was a member of the union here, that there was some faithlessness?

Mr. Grossman: Not necessarily.

Presiding Inspector: I won't take a mere fact

(Testimony of George A. Graham.)

that employees reported on matters. It may not be in any way connected.

Mr. Grossman: Let me state this, your Honor:

Presiding Inspector: Yes.

Mr. Grossman: It very often happens—we can demonstrate it if it is required—it very often happens that labor spies or informers work in ways that don't require their membership in unions. For example, very often they will report to the employer the sentiment among the men to join a union before a union has ever come in so the men can be fired for even talking [3620] of unions, which is one of the most common—in fact, where the employers are most successful in keeping unions out by eliminating every man who joins the union before a union ever comes into the picture. Therefore, it is quite possible for him, not a member of the union, to carry on the same kind of labor spying and informing.

Presiding Inspector: I think that is pretty remote.

Mr. Grossman: Your Honor, we don't consider it remote, that a witness has a bias or such a state of mind toward unions that he will engage in this sort of activity. We consider especially, since this case represents in the mind of the public and in the minds of lots of people, a labor case, therefore prejudice against labor unions is prejudice against—

Presiding Inspector: I don't think this is a labor case of any kind. I don't consider this a labor

(Testimony of George A. Graham.)

case of any kind. The only question here is whether the Alien is subject to deportation under the rules of the statute. It has not anything to do, in its ultimate decision, with any labor matter.

Mr. Grossman: Yes, your Honor. I am not saying you believe this. All I am saying is this: If, in the minds of the public, based upon the endorsement of certain unions and the CIO and so on, if this case in the mind of the public or in the mind of St. Clair is a labor case and represents unionism, then, the bias of Mr. St. Clair or any witness toward unions or toward unionism is relevant regardless of what you [3621] or I might think because we are concerned with Mr. St. Clair, and if he thinks it is a labor case, then, his bias against unions is important. And, as I say, we are prepared to prove, if your Honor doesn't except, that among a large part of the public in the CIO, in particular, this is not only considered a labor case but has been declared a labor case by President Murray.

Now, obviously, that gets to peoples' minds, through the newspapers and other methods.

Presiding Inspector: You are not trying it to the general public,

Mr. Grossman: No, but as a member of the general public, or one that reads the newspapers Mr. St. Clair, or any other witness will form an opinion as to whether this is a labor case or as to whether his testimony against Bridges will hurt the labor movement, which is the important—whether he is

(Testimony of George A. Graham.)

right or wrong, if he thinks he can hurt the labor movement by testifying against Harry Bridges, then, his bias against the labor unions or labor movement is relevant.

Presiding Inspector: Pretty remote.

Mr. Grossman: It is remote to us, I agree. You may give it less weight than we think it ought to have. It is definitely relevant.

Presiding Inspector: What have you to say, Mr. Del Guercio? [3622]

Mr. Del Guercio: I believe the whole matter ought to be excluded. I think the Government has made it clear from the very beginning that this in no wise is a labor case. We are proceeding against Harry Bridges because we believe the evidence shows that he has been a member of the Communist Party and of affiliated organizations and of the Industrial Workers of the World, subversive organizations. We are not proceeding against Harry Bridges because he is a labor leader, because he is a member of any union, CIO, A. F. of L., or any other, and we haven't introduced a single bit of evidence attacking Mr. Bridges because of his labor activities. All of the evidence that the Government has introduced has been to show that Harry Bridges has been acting as a member of the Communist Party, not as a member of any labor union. The Government has not sought in this case at any time by implication or otherwise to cast reflection upon any bona fide labor union, CIO, A. F. of L.,

(Testimony of George A. Graham.)

or anything. The Government has not used the witnesses knowingly who were what they called labor spies. We have attempted—the case was very thoroughly investigated. We have attempted to present witnesses here who were truthful and who were testifying of their own knowledge, not because of their activities in labor unions, but because of their past membership in the Communist Party and because of their activities in labor unions as members of the Communist Party, because of their activities in labor [3623] unions because of directions and instructions received from the Communist Party. And, I believe, that this Court should make it clear to counsel and to the public that we are not trying labor unions.

Presiding Inspector: I think that is clear—

Mr. Del Guercio: (Interposing) And to exclude all reference—

Presiding Inspector: (Interposing) —within the four walls of this room, this hearing room, that this is not a labor case. However, I will let you go a little further with this witness. You may have something that I don't comprehend.

Mr. Grossman: I will re-phrase the question because it will be too far back to find, I am afraid.

By Mr. Grossman:

Q. I asked you whether, to your knowledge, Mr. St. Clair had ever reported on the activities of unions or the attitude toward unions of agricultural workers?

Presiding Inspector: Mr. Del Guercio objects.

(Testimony of George A. Graham.)

Mr. Del Guercio: Yes, your Honor.

Presiding Inspector: And I will allow the question.

A. Do you mean in Orange County?

By Mr. Grossman:

Q. Anywhere?

A. I will say as far as the report is—

Presiding Inspector: (Interposing) You mean current [3624] things? You don't mean reporting past history?

Mr. Grossman: Things that were then happening or have just happened.

Presiding Inspector: Yes.

The Witness: Not in the sense of a report during my acquaintance with Mr. St. Clair, in hauling him from Los Angeles and around. He discussed many things. During those conversations he mentioned labor activities. I don't recall that he particularly stressed agriculture. As I remember it, he had no experience in any agricultural unions.

Presiding Inspector: Well, that answers your question.

By Mr. Grossman:

Q. At any time after that did he have such a conversation with you?

A. Just along general lines. That answer covers the complete experience with Mr. St. Clair.

Q. Did he ever discuss either the activities of or the attitudes of any agricultural laborers in discussions with you?

(Testimony of George A. Graham.)

Mr. Del Guercio: If your Honor please, I object to that as already having been answered.

Presiding Inspector: You mean historically?

Mr. Grossman: No. I will phrase it more definitely.

Presiding Inspector: Yes.

By Mr. Grossman: [3625]

Q. Did he ever at any time in discussions with you report on recent attitudes of or activities of agricultural workers in connection with unions or union activities?

Mr. Del Guercio: I will object to that question.

Presiding Inspector: I will take that, if you understand it.

The Witness: Yes, I understand it, but it was quite a while ago. It was just another incident as far as I was concerned and I don't recall of any time where he did go into that phase at all. [3626]

By Mr. Grossman:

Q. At the time that Mr. St. Clair was employed in Orange County did the Associated Farmers, either the State organization or the County unit, employ any informer or labor spy, among unions or workers in that County?

Mr. Del Guercio: If your Honor please—

Presiding Inspector: I will exclude that.

Mr. Del Guercio: I think that counsel should be admonished.

Presiding Inspector: That is improper, I think.

Mr. Del Guercio: It is very improper.

(Testimony of George A. Graham.)

Presiding Inspector: I don't know as it needs comment. By "improper" I mean it is not material to this case.

Mr. Grossman: Let me explain some of the relevance, your Honor.

It has not yet been developed, and perhaps it can't be by this witness, that the Associated Farmers—and we are prepared to prove everything I now say if it becomes relevant—are not a farmers' organization, but an anti-labor organization. They are an organization that throughout the State in various counties—I don't say every county, has employed, as the LaFollette Committee records clearly show, has employed labor spies, has employed labor spies to report, not only among agricultural workers and unions, but in other unions. They are an organization which has subsidized other anti-labor [3627] activity and which, in turn, is subsidized by anti-labor organizations.

I am not saying at this time whether Mr. St. Clair was one of those informers, but the organization was.

Now, here is a man who represented the Associated Farmers at that time, an organization which, as I say, we can prove definitely every word of what I say, was primarily an anti-labor organization, which made it a business, among other things, to employ labor spies, official and unofficial, paid and unpaid, and for all I know was at that time in this county carrying on part of such activities.

Presiding Inspector: I think that is too remote,

(Testimony of George A. Graham.)

too far afield. You have put this witness on to encroach on his credibility to a certain extent.

Mr. Grossman: I am not challenging any statement he has made yet, your Honor.

Presiding Inspector: You want to know in general whether this institution has, in other cases, done things which you characterize as reprehensible. We can't hear that.

Mr. Grossman: The question goes to this time.

Presiding Inspector: Even at this time.

Mr. Grossman: At the time and in the county where St. Clair was working.

Presiding Inspector: The evidence has shown that he had no such relationship with St. Clair. Bad men may employ good [3628] servants.

Mr. Grossman: Pardon?

Presiding Inspector: Bad men may employ good servants.

Mr. Grossman: It is possible.

Presiding Inspector: It is too remote.

Mr. Grossman: I will continue along a slightly different line.

By Mr. Grossman:

Q. Have you ever engaged in any activity in connection with the deportation of Harry Bridges?

A. No, sir.

Q. Did your unit of the Associated Farmers ever pass any resolution dealing with the deportation or the possible deportation of Harry Bridges?

Mr. Del Guercio: I will object to that question.

(Testimony of George A. Graham.)

First of all, he is trying to discredit his own witness.

Presiding Inspector: I don't see that has any materiality. They have a right to pass such resolutions just as much as other bodies have a right to pass resolutions to the contrary.

Mr. Grossman: It is my understanding of the general principles of law that not only can you go into bias of a witness, but you can go into bias of someone who procures that witness. That is my understanding of the general criminal law. But that bias of procuring—and Dean Landis has a good deal of discussion along those general lines in his report, [3629] this bias of the procurer can well go to the person procured. It may determine whom he procures; it may determine what he tells that person that he procures, and so on.

If I can show bias on the part of this witness, through his organization, I can tie it up, because I can show, even though a few preliminary questions were left out, I can show that he agreed generally with his organization on these matters. If I can show a definite bias, and activity on the part of the Associated Farmers, to try to secure the deportation of Harry Bridges, activity going so far, as a matter of fact, as attempting to secure the impeachment of Secretary Perkins because she didn't begin certain proceedings against Harry Bridges, which shows how far it can go, and if I can show that on the part of his organization and himself, I think it is relevant, that it shows bias,

(Testimony of George A. Graham.)

that he procured a witness, and he is biased against Harry Bridges in particular; and even more particularly, biased in favor of the deportation of Harry Bridges.

I think it is quite relevant.

Mr. Del Guercio: If the Court please, this isn't argument. This is an oration.

Presiding Inspector: This is argument. I take it as argument.

Mr. Del Guercio: No. The evidence shows, *your Honor* please, and I challenge and agree to have it put in—St. [3630] Clair was produced by the Government, and by no organization, no group, no individual but the FBI, a Governmental agency, who obtained the testimony of Richard St. Clair.

Presiding Inspector: I don't know about that.

Mr. Del Guercio: There is no evidence, and counsel knows there isn't any evidence in this proceeding here on it.

Presiding Inspector: I will have to examine the record on that.

Mr. Del Guercio: His reference to such an organization is clearly improper, if the Court please, because it can't be borne out by the evidence and counsel is speaking, not for argument, and addressing himself to the Court, but to certain papers and for publicity matters.

Presiding Inspector: I am not interested at all in that.

Mr. Grossman: I think it would be made clearer if we could adjourn early and convene early so I

(Testimony of George A. Graham.)

can procure the testimony of Mr. St. Clair, because I am relying on my recollection, which might be slightly at fault. If we could adjourn now and reconvene at ten minutes early I think it would be a good idea.

Presiding Inspector: Is that all you want to ask this witness?

Mr. Grossman: No. I have other questions.

Presiding Inspector: Why not go ahead with questions clearly more competent?

Mr. Grossman: All right. [3631]

By Mr. Grossman:

Q. Did you ever discuss with Mr. St. Clair his testifying against, rather, his testifying in a deportation case involving Harry Bridges?

Mr. Del Guercio: I object to that unless he puts the time and place, and the preliminary questions as to whether he ever has.

Presiding Inspector: I will allow the general question first, although it is probably for impeachment.

Mr. Grossman: It isn't impeachment. I am asking generally, and I will come to something specific if he says "Yes."

A. Yes. The answer is "Yes."

By Mr. Grossman:

Q. When was it?

A. As I stated a while ago, we became more or less acquainted; Mr. St. Clair talked a good deal. During his conversation I would judge, perhaps two

(Testimony of George A. Graham.)

or three weeks after I first met him, he mentioned Harry Bridges. I didn't ask him any questions. He did all the talking.

A few days after that, in talking to one of the Immigration officers, I mentioned the fact that Richard St. Clair claimed to have some information on Harry Bridges.

Later on I met with the Immigration officers and St. Clair, and at that time we discussed the deportation of Harry Bridges, the case.

I said "We." I was present during the conversation. [3632]

Q. How did you happen to have any discussion at all with the Immigration officers?

A. It is part of the basic policy of the Associated Farmers that we cooperate with all local, state, national, law enforcement agencies.

Q. That doesn't answer the question. How did this particular meeting come about with the Immigration officers? What was the subject matter?

Presiding Inspector: You mean the meeting at which Mr. St. Clair was present?

By Mr. Grossman:

Q. I am first referring to the first time when you told the Immigration officers that Mr. St. Clair knew something. How did this meeting come about—what was the reason for it?

A. That is customary—I talk with Immigration officers, District Attorneys and all officers quite frequently in my work.

Q. Do you remember how this particular meet-

(Testimony of George A. Graham.)

ing. happened to come about? Was there any specific subject that was to be discussed at the meeting?

A. It was just a chance meeting, and during the meeting I mentioned the fact that there was a man in the County that appeared to have information on Harry Bridges.

Q. All right.

A. It wasn't called for that purpose. I didn't go to [3633] his office, or anything. I believe we met on the street.

Q. Who was the Immigration officer?

A. Franklin Davis.

Q. Where is he stationed?

A. He is stationed in Santa Ana, Orange County.

Q. Was the only one present when you had this conversation about St. Clair, the first conversation with him? A. Yes.

Q. How did the second meeting come about?

Mr. Del Guercio: If your Honor please, there is no such meeting, and there is no such time, place, and there is no evidence that it was a meeting.

Presiding Inspector: I will take it.

By Mr. Grossman:

Q. You stated you discussed with the Immigration officers, or, rather, you were present when there was also present Mr. St. Clair and a certain Immigration officer. A. That is right.

Q. Now, that is the second meeting I refer to. How did that come about?

A. In Riverside one day I received a phone call from my office to the effect that Mr. Norene, I be-

(Testimony of George A. Graham.)

lieve his name was, from Seattle, and a companion were in Santa Ana wanting to know if I could find Mr. St. Clair and bring him to the Immigration office in Santa Ana.

I told them I could and I would. [3634]

I went to San Juan Capistrano and picked up Mr. St. Clair. That was where he was working.

We went back to Santa Ana. I took him up to the Immigration office. I went in the meeting with him and stayed there.

Q. Did you have any conversation with Mr. St. Clair that you can recall before you took him to that meeting? A. No.

Q. That is, with reference to his going to the meeting?

A. No. I knew nothing about that at all. I merely mentioned it along with other things to Mr. Davis and I was surprised to get the phone call.

Q. Can you tell me what was the substance of the information that Mr. St. Clair gave you about Bridges that you conveyed to the Immigration man?

Mr. Del Guercio: If your Honor please, I object to this line of questioning for a number of reasons. It is apparent that counsel is referring to a matter that occurred prior to the last deportation hearing. We are not interested in what occurred there. We are interested in St. Clair and the testimony he gave here, and as to whether that testimony was true. That is all.

Mr. Grossman: If that is all you are interested in why wasn't he put on at the last hearing?

(Testimony of George A. Graham.)

Mr. Del Guercio: That is none of your affair.
[3635]

Mr. Grossman: Apparently he wasn't believed before the last hearing.

Mr. Del Guercio: That statement is uncalled for and unnecessary.

Presiding Inspector: I think it was improper.

Mr. Grossman: That is the most logical answer I can think of.

Presiding Inspector: It is highly improper. Of course, it won't have any effect except a prejudicial one, if any, to make statements like that.

Mr. Grossman: The only objection Mr. Del Guercio made to the question I am attempting to ask is that it happened before the last hearing. I say that is no objection. As a matter of fact, it is a pertinent point in our favor.

Presiding Inspector: So far as it contradicts Mr. St. Clair. Was he asked about it?

Mr. Grossman: I don't say it contradicts him.

Presiding Inspector: What do you offer it for, then?

Mr. Grossman: I want to know exactly what this witness was told. I have a right to go into the fact that he was told something about Bridges. I want some details. He said Mr. St. Clair mentioned Bridges. I want to know what St. Clair said about Bridges.

Presiding Inspector: You should have asked St. Clair that, shouldn't you? [3636].

(Testimony of George A. Graham.)

Mr. Grossman: I am not saying I want to contradict St. Clair. I obviously have a right to go into the subject matter of what St. Clair said to him about Bridges. In other words, how Mr. Graham happened to do what he did. I want the details, precisely what Mr. St. Clair said to him.

Presiding Inspector: You want to show this in order to show bias?

Mr. Grossman: Not necessarily on this particular point.

Presiding Inspector: What do you want to show?

Mr. Grossman: I want to find out on this precise point why Mr. Graham did what he did after that.

Presiding Inspector: What difference does it make?

Mr. Grossman: It may make a great deal of difference.

Presiding Inspector: We are interested here in this instance only in Mr. St. Clair, isn't that right?

Mr. Grossman: I don't think so, your Honor. If we can show that Mr. Graham did things to get Mr. St. Clair to testify, perhaps gave Mr. St. Clair something—his job is ~~not~~—by any means I haven't used that in my argument, the fact that a job was given or found for him—but if Mr. Graham used some inducement to get Mr. St. Clair to testify that is important and I think I have a right to show it; or, as I stated, just the fact that Mr. Graham having certain bias and procured him, that becomes important too.

(Testimony of George A. Graham.)

Presiding Inspector: Haven't you got that?

[3637]

Mr. Grossman: Not in detail. All I know is Mr. St. Clair mentioned Bridges. I haven't yet asked what he said. That is all I am asking now.

As I say, I am not saying I am trying to impeach St. Clair or this witness either.

Mr. Del Guercio: In view of counsel's statement that he is not attacking, or is not endeavoring to attack the veracity of St. Clair, but merely to show in what ways, apparently devious ways St. Clair was procured to appear here, all of this is out of order. He is not attacking St. Clair's veracity. He is not stating, or attempting to show that St. Clair did not testify truthfully, but he is trying to throw up a smoke screen because of what such and such a thing happened; that St. Clair isn't a liar, but so and so procured him. Therefore, while he is not a liar he must be called a liar, and he wants the Court here to believe that he is a liar; not because he is in fact a liar but because of the manner in which—

Presiding Inspector: Let us analyze this a little. You don't want to show this as impeaching St. Clair's veracity?

Mr. Grossman: Not as such, your Honor.

Presiding Inspector: And you don't want to, show it as bias?

Mr. Grossman: Yes; as bias.

Presiding Inspector: You do?

Mr. Grossman: It may be bias as implied to St. Clair through Mr. Graham. [3638]

(Testimony of George M. Graham.)

Presiding Inspector: But ostensibly you want to show this as attacking the underlying sincerity of the Government's investigation?

Mr. Grossman: I wouldn't say that.

Presiding Inspector: Isn't that it?

Mr. Grossman: That big a job we don't have to undertake. If we can merely attack the underlying sincerity of the procurement of a certain witness, that is all we have to show to be relevant. I am not saying we are biting off the other job, that every witness was procured in that way.

Mr. Del Guercio: What other job is implied by that?

Mr. Grossman: If we could look at your records we might take the other job over too.

Presiding Inspector: Wait a minute. I am asking some questions of counsel and I want to get an answer.

Mr. Grossman: It is simply a question of what inducements were used, or by whom, St. Clair was procured, and what are the attitudes of the man or the organization that procured him.

Presiding Inspector: Read the pending question.

(The question referred to was read by the reporter as follows:

"Q. Can you tell me what was the substance of the information that Mr. St. Clair gave you about Bridges that you conveyed to the Immigration man?")

(Testimony of George A. Graham.)

Presiding Inspector: I will let you answer what information [3639] tion was given to you by Mr. St. Clair that you discussed at this interview when you all three were present. That is what you want?

Mr. Grossman: Yes.

The Witness: When three were present?

Presiding Inspector: Yes; at which Mr. St. Clair was present.

Mr. Grossman: This will be the first interview. When he first gave his interview with Mr. Davis.

Presiding Inspector: He has covered all of that.

Mr. Grossman: Not as to what the information was.

Presiding Inspector: I will allow you to give what information you told or gave Mr. Davis on the first interview. That is over your objection, Mr. Del Guercio.

Mr. Del Guercio: Yes.

Presiding Inspector: I thought you covered that.

Mr. Grossman: No, we haven't.

Presiding Inspector: Go ahead. What did you tell him on the first instance?

A. During my conversation with Mr. St. Clair, he had said that at different times he had attended Party meetings with Harry Bridges—correction—I say Party meetings—as I recall it, he said that he was guard, or something, some officer, at the building, and at the room in which the Party meeting was on in, and in which Harry Bridges was present.

(Testimony of George A. Graham.)

Presiding Inspector: And you told Mr. Davis that? [3640]

The Witness: I merely reported that to Mr. Davis.

Mr. Grossman: May we adjourn for lunch now, if your Honor please?

Presiding Inspector: Let us finish this particular matter if we can.

Mr. Grossman: I have finished the particular line of inquiry, but I cannot finish my examination very quickly.

Presiding Inspector: Well, we will recess until 2:00 o'clock.

(Whereupon, at 12:35 P. M., a recess was taken until 2:00 P. M. of the same day.) [3641]

After Recess

2:00 O'clock P. M.

Presiding Inspector: Call back the witness, Mr. Grossman.

GEORGE A. GRAHAM,

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Direct Examination
(Resumed)

By Mr. Grossman:

Q. Mr. Graham, what, if anything, have you

(Testimony of George A. Graham.)

done to bring about the deportation of Harry Bridges?

Mr. Del Guercio: If your Honor please, I object to the question, first of all, as being improper; and, secondly,——

Presiding Inspector: This is your witness. I think that is improper. He is not an employee of the Government.

Mr. Grossman: In the first place, even though he is our witness, we have a right to show bias; secondly, if your Honor rules we cannot show bias with our own witness we are prepared to argue.

Presiding Inspector: You can show bias of a witness, yes.

Mr. Grossman: That is all I am asking.

Presiding Inspector: To show bias of this witness?

Mr. Grossman: Yes.

Presiding Inspector: How would that be material from your side of the case? You offered this man to be relieved. Now, you don't want to build up a straw man and knock him down. [3642]

Mr. Grossman: If he testifies that he was biased against Bridges I don't ask you not to believe him; I ask that you believe him.

Presiding Inspector: I won't receive bias of this witness because he hasn't testified to anything that would call for any such thing.

Mr. Grossman: If, for the reasons I argued before, he had any part in procuring a witness his bias becomes material for that reason.

(Testimony of George A. Graham.)

Presiding Inspector: Oh, no. He told you all about that. What difference does it make whether he does it with ill will or good will?

Mr. Grossman: I think, your Honor, that the law is that it makes a difference.

Presiding Inspector: I know of none.

Mr. Grossman: We are prepared to argue that.

Presiding Inspector: I would like to hear you.

Mr. Grossman: It will take a moment or two to get our material in order.

Presiding Inspector: Take all the time you need.

Even in a criminal case, almost all criminal cases are prosecuted as a result of informers and biased witnesses. That is the way that the police work.

Mr. Grossman: To the extent that they are, I say we have a right to go into it. I am not saying that the Government doesn't have the right, if that is the only way they can [3643] procure witnesses, to use biased procurers, but that doesn't mean we can't go into it.

Presiding Inspector: There is no evidence that they have used this witness that way.

Mr. Grossman: Right.

Presiding Inspector: We won't go into that unless you can convince me on it.

Mr. Grossman: We will see what we have here on that point.

Mr. Myron: While we are waiting, your Honor, may we have the last question read?

Presiding Inspector: Yes. Perhaps you will withdraw your objection.

(Testimony of George A. Graham.)

Mr. Myron: No. I just want the question read.

Presiding Inspector: Read the question.

(The question referred to was read by the reporter as above recorded:

"Q. Mr. Graham, what, if anything, have you done to bring about the deportation of Harry Bridges?")

Mr. Grossman: Your Honor, I thought that we had some law on that, but I note that what we have brought in is the opinion of Dean Landis on this question. What I was thinking of was the improper inducement of someone who procures, rather than bias. Your Honor, therefore,—

Presiding Inspector: You may be able to show that—you [3644] mean to show general bias as to the whole case?

Mr. Grossman: Right.

Presiding Inspector: Then you would have to show, I suppose, some connection between the Government and—

Mr. Grossman (Interposing): I am not reasoning from that at this time. All I want to say is that being true—we haven't come with the law on this particular point, and I don't think I could add anything now but, the general rule, as I understand it.

Presiding Inspector: I will exclude this for the moment. You can bring it up again.

Mr. Grossman: Let me ask you this question—we are prepared to argue this as well: If our right to go into this would be clear on cross examina-

(Testimony of George A. Graham.)

tion of a hostile witness produced by the Government, we say we have a right to go into this with this witness, even though he is produced by us; and we are prepared to argue the point—Mr. Gladstein is—that one's own witness, produced by one's self, if one can demonstrate that he is a hostile witness, one could treat him as if produced by the other side and cross examine him accordingly.

Presiding Inspector: If he is a hostile witness you may go further on direct to bring out the truth. But if he has testified to matters which are damaging to your side then you may also discredit him. I haven't heard anything from this witness to indicate that he is hostile or, anything in a general [3645] way, which would be considered as damaging to your theories.

Mr. Grossman: The question I am asking is this, your Honor: Whether we would be permitted to go into that if we demonstrate that this witness is hostile? In other words, we are willing to argue that point if your Honor will say that.

Presiding Inspector: If you show he is hostile I will give you greater liberty in examination.

Mr. Grossman: Well, I wish to ask this question, then——

Presiding Inspector (Interposing): That doesn't mean——

Mr. Grossman (Interposing): ——going to this issue, your Honor.

Presiding Inspector: Yes.

(Testimony of George A. Graham.)

Mr. Grossman: I think the question is definitely relevant on that issue.

Could we have the question read?

(The question referred to was read by the reporter as above recorded.)

Mr. Del Guercio: There is an objection, of course.

Presiding Inspector: There is an objection and I will sustain the objection.

Mr. Grossman: I will ask it now, going to the hostility of the witness.

Presiding Inspector: I don't think you can show it in that general way.

By Mr. Grossman:

Q. Mr. Graham, what are your feelings with reference [3646] to Harry Bridges—

Mr. Del Guercio (Interposing): If your Honor please—

By Mr. Grossman:

Q. (Continuing): —or what you believe he stands for?

Mr. Del Guercio: I object to that question as being improper, immaterial and irrelevant.

Counsel here is bringing his witnesses, his own witness and making his own issues, or attempting to make his own issues, which is clearly improper. The only hostility, if it may be called hostility, that this witness has shown is that he belongs to an organization whose avowed purpose is to seek out

(Testimony of George A. Graham.)

subversive activities. Now, if counsel says that is hostility I will admit that I am hostile also.

Mr. Grossman: Your Honor, obviously I have stated we are prepared to prove more. We are prepared to prove that the Associated Farmers not only is anti-labor, has taken, as I stated before, direct activity to get Harry Bridges deported. That, I claim, shows the hostility. Now, we have some law here from Wigmore on the question of what kind of hostility we are allowed to go into. We are relying, of course, on our common law right because the statute won't cover here.

Presiding Inspector: Yes.

Mr. Grossman: We claim the hostility towards the individual is the kind of hostility we are permitted to show with reference to a witness.

Presiding Inspector: Yes. If you can show he has any [3647] real hostility to Mr. Bridges, why, of course, that may be competent as bearing upon his testimony, but up to this point I haven't heard anything that he has testified to that is of any great materiality—

Mr. Grossman (Interposing): That is why I should be permitted this question.

Presiding Inspector: First ask the question. First show what you want to show by this witness.

Mr. Grossman: By the question or by telling—

Presiding Inspector: No, by questions.

Mr. Grossman: Oh. Well, I think my last question does, your Honor.

Presiding Inspector: Ask him as to what in-

(Testimony of George A. Graham.)

duced him to do this, if you want to. You may ask him—I will allow you to ask him, over objection if made, if he produced, if he took or had this conversation with Mr. Davis, was his name, the first one?

Mr. Grossman: Yes.

Presiding Inspector: If he had that through enmity toward Mr. Bridges, you may ask that.

Mr. Grossman: I don't think I have to tie it down to any particular conduct, your Honor. If he has the general feeling toward Mr. Bridges I don't think I have to show the influence, one way or another, of his acts in order to establish him as hostile.

Presiding Inspector: That would open the field to what [3648] his beliefs are, don't you see, and what his grounds for those beliefs are. If he believes he is a malefactor, why, there might be some justification, even if he was not a malefactor. Now, you don't want to go into all that matter, do you?

Mr. Grossman: I think I have a right to approach it generally, though, your Honor. I could see I can approach it the way you are saying. I prefer to approach it generally, his general views toward Harry Bridges or his general prejudice.

Mr. Del Guercio: In the first place, the question would be improper on this ground: The question is what have you done to have Harry Bridges deported?

Mr. Grossman: No, that was the former question.

Presiding Inspector: He has withdrawn that

(Testimony of George A. Graham.)

question, under my suggestion that he proceed to another point and may come back to that.

Mr. Del Guercio: Now, the last question is what he thinks of Harry Bridges.

Mr. Grossman: His attitudes.

Mr. Del Guercio: Now, counsel could go out and get thousands of persons who don't believe Harry Bridges is any good. Now, does he want to bring all those people in and ask them those questions?

Presiding Inspector: I don't suppose he does.

Mr. Del Guercio: Well, that is what he is attempting to do.

Mr. Grossman: If Mr. Del Guercio can find thousands let [3649] him produce them.

Mr. Del Guercio: You have produced one now, or you have attempted to produce—

Mr. Grossman: (Interposing) I will stipulate, all members of the Associated Farmers will take that view.

Mr. Del Guercio: That isn't an issue.

Presiding Inspector: That, of course, isn't in issue.

Mr. Grossman: I still think the question is pertinent, your Honor, that I was asking. I will re-frame it to save the time of finding it.

By Mr. Grossman:

Q. What is your present attitude or feeling toward Harry Bridges?

Mr. Del Guercio: I will object to that question, if your Honor please.

(Testimony of George A. Graham.)

Presiding Inspector: I think it is doubtful, but I will take it, if you can answer it.

The Witness: Yes, I think I can.

A. Basing my opinion on what I hear and what I read, basing it particularly on the support given Mr. Bridges through Communist periodicals and publications I would say that, in my opinion, he was undesirable because, generally speaking, my principles wouldn't allow me to support anything that they support, generally speaking.

Presiding Inspector: Now, you see the difficulties we are in. [3650]

Mr. Grossman: Yes, I recognize that, but I think I still have a right to ask this question.

Presiding Inspector: Whether he is undesirable or not isn't the question.

Mr. Grossman: It indicates his state of mind. It may not be the issue of this proceeding but it—

Mr. Del Guercio: (Interposing) Indicates whose state of mind?

By Mr. Grossman:

Q. Do you believe Harry Bridges ought to be deported?

Mr. Del Guercio: If your Honor please, I object to that question. In the first place, it is only the Government who is interested in—who can deport Harry Bridges, no individual or groups of individuals, no matter what their desires are.

Presiding Inspector: He is trying to show the attitude or the bias of the witness. I don't think the bias of the witness amounts to anything one way or the other as yet; there may be something.

(Testimony of George A. Graham.)

I will let him answer that. It is pretty extreme.
Go ahead.

Do you think he ought to be deported? Now, that calls for his belief, I suppose, as to his subversive conduct, if there is such, under that law. I don't suppose he even knows what the law is.

Mr. Grossman: Without knowing the law he probably be- [3651] lieves he ought to be deported, your Honor.

Mr. Del Guercio: I wouldn't blame him for that, if your Honor please.

Presiding Inspector: All right, then, we will take it.

Mr. Gladstein: I move that the remark of Mr. Del Guercio—

Presiding Inspector: (Interposing) No, I will let it stand. Go ahead. It isn't proper. It isn't evidence, but it comes up as a result of the talk back and forth.

I will let you answer it.

A. The question is do I think he should be deported?

Presiding Inspector: Yes.

The Witness: My personal opinion?

Presiding Inspector: Yes, that is all.

The Witness: Yes.

By Mr. Grossman:

Q. Did you ever participate in the passing of any resolution calling for the impeachment of Secretary Perkins for not ordering a deportation hearing against Harry Bridges?

(Testimony of George A. Graham.)

Mr. Myron: Object.

Mr. Del Guercio: If your Honor please, I object to that question.

Presiding Inspector: I won't take that; that is too remote. We have got to go into the whole situation and history of this proceeding if we take that. Haven't you got in a great deal more definite statement which he just made?

Mr. Grossman: It is a question of whether we have yet [3652] established, to the satisfaction of your Honor, hostility. Perhaps, we have. If so, I will abandon further questions. In other words, the purpose of this line of inquiry is to have him established as a hostile witness. If and when we reach that point if we could be told—

Presiding Inspector: (Interposing) I don't think this is a hostile witness within the meaning of that phrase in the law. He may be a biased witness beyond any point—if there is any point where there is any chance for bias.

Mr. Del Guercio: Nor surprise, if your Honor please.

Mr. Grossman: We are not relying on surprise; we are relying on hostility to the extent that that opens up the issues that we couldn't otherwise go into.

Presiding Inspector: Yes. Well, I am not sure you can go into them but I want to give you the basis.

I am giving him the basis for asking these questions. I don't want to have any trouble about it.

(Testimony of George A. Graham.)

Mr. Grossman: Just one moment, your Honor.

Presiding Inspector: Yes, surely.

Mr. Grossman: Your Honor, this is, of course, a very difficult question as to what constitutes this kind of hostility. Let me read two or three lines from Wigmore, what he considers a definition of this kind of hostility. I think we have established it according to this, if this statement of Wigmore's is accepted as a definition. [3653]

"A similar situation arises where the witness, though called by the party examining, is in fact biased against his cause——" in italics ——"biased against his cause——" in italics ——"and is thus indisposed to favor it by accepting suggestions of desired testimony."

And he goes on to say that here a question cannot be objectionable as leading.

Now, it seems to me that this witness has indicated a bias against the cause, the cause being the issue of this case.

Presiding Inspector: Yes.

Mr. Grossman: The deportation of Bridges.

Presiding Inspector: That opens—assuming that is the fact it gives you a greater freedom to examine in chief than you would have.

Mr. Grossman: That is right.

Presiding Inspector: You may, under those circumstances, if you find it necessary lead the witness but, of course, the effect of the answers would be taken into consideration with leading questions.

Mr. Grossman: Are you ruling though we may

(Testimony of George A. Graham.)

be able to lead the answers are still those of our witness?

Presiding Inspector: Oh, they are the answers of your witness undoubtedly. I don't mean to say that you might not introduce contradictory statements to impeach your witness. The old rule against impeaching a witness has been done away— [3654] of one's own witnesses has been done away with in many states. It has been done away with in New York under certain circumstances; that is, you can impeach him by writings, and in this administrative proceeding, perhaps, greater liberality was granted in that way. You can't impeach your own witness in New York by simple statements out of Court but you may if they are under oath or are in statements signed. You probably know the statutes, Mrs. King, who is a member of the New York Bar, would probably know them.

Mr. Del Guercio: And on that point, if the Court please, while Wigmore may have said—may show that the witness is opposed to the defendant's cause, nevertheless, the defendant's cause must be known too. What is it that the witness is opposed to?

Presiding Inspector: That, of course, bears on it.

Mr. Del Guercio: Is it Bridges or what he represents, or Bridges as a member of the Communist Party, his cause for Communism, not Bridges personally.

Presiding Inspector: Those would all be taken into consideration, of course.

(Testimony of George A. Graham.)

Mr. Del Guercio: Of course.

Presiding Inspector: Go ahead, Mr. Grossman. Ask the next question. I don't want to unduly hurry you.

By Mr. Grossman:

Q. Mr. Graham, so far as you know do you agree with all the activities and the statements of policy of the [3655] Associated Farmers of California with respect to the deportation of Harry Bridges?

Mr. Del Guercio: If your Honor please, I object to that question as being immaterial and irrelevant and improper.

Mr. Grossman: This is to lay a basis to show what those policies are, attributing them, therefore, to Mr. Graham.

Presiding Inspector: I suppose you are going to show what they are.

Mr. Grossman: Yes, sir.

Presiding Inspector: Of course, your question merely refers to those that he now has in mind.

Mr. Grossman: That is correct.

Presiding Inspector: I will take it.

Mr. Del Guercio: Are we going to try those issues also?

Presiding Inspector: I am afraid so; I don't know. It is going pretty far afield, Mr. Del Guercio, I agree with you, but I think I will allow it.

A. You must bear in mind that I am employed full time with the Associated Farmers of Orange County which is an incorporated unit of its own.

(Testimony of George A. Graham.)

and there are many statements of the state association with which I am not familiar.

By Mr. Grossman:

Q. I am only asking about those that you know?

A. My answer is yes.

Q. And could you state for us what you know to be the [3656] activities or the statements of the state organization with respect to the deportation of Harry Bridges?

Mr. Del Guercio: I will object to that question, if your Honor please, immaterial.

Presiding Inspector: I will take it. We are trying now the Farmers—

Mr. Del Guercio: (Interposing) The Farmers Association.

Presiding Inspector: —Association, but I will take it;

Mr. Del Guercio: Well, should Mr. Bridges be excused?

Presiding Inspector: No.

Mr. Grossman: It is all right with us.

Presiding Inspector: Go ahead.

Mr. Gladstein: Mr. Bridges says he has a lot of valuable work to perform for his trade union if Mr. Del Guercio will stipulate to his being excused.

Mr. Del Guercio: We are not trying trade unions, if your Honor please.

Presiding Inspector: Well, go ahead, Mr. Grossman.

(Testimony of George A. Graham.)

Mr. Grossman: All right. Did you hear the question, Mr. Graham?

The Witness: I think so.

A. I agree with the policies of the state organization as far as I know them and as I understand them and know them, and they are: We are opposed to subversive activities in general, due to his support through subversive activities we [3657] believe that he is in favor of subversive activities, also we are opposed to Bridges' policy or his organization's policy of the compulsory closed shop. Our organization is not—does not believe in the compulsory closed shop.

To that extent I agree with the state organization.

By Mr. Grossman:

Q. Do you know whether your organization has taken any position with respect to whether Bridges ought to be deported?

Mr. Del Guercio: If your Honor please, I object to that on the same grounds.

Presiding Inspector: I will take it.

A. To my knowledge there has been no official action.

By Mr. Grossman:

Q. Do you regularly read the resolutions of the Associated Farmers of California and the Executive Board or Executive Committee?

A. I don't read them all. [3658]

Q. As Secretary of a County Unit of the Asso-

(Testimony of George A. Graham.)

ciated Farmers, did you receive copies of all the minutes of the Associated Farmers of California?

A. Yes.

Mr. Del Guercio: I object to that, if your Honor please. What difference does it make whether he receives them all or receives some of them?

Presiding Inspector: I will take it. He has testified that he didn't know of any such activity. Now, the witness is being pressed on that point. Go ahead. I will allow it.

A. Yes, I receive them all.

By Mr. Grossman:

Q. Do you also receive reports of all the conventions of the Associated Farmers of California?

A. Yes.

Mr. Del Guercio: I object to that question, if your Honor please.

Presiding Inspector: He said "Yes." I will allow it to stand.

By Mr. Grosman:

Q. What did you say was the time when you began working for the Associated Farmers?

A. August 1, 1937.

Q. 1937? A. Yes. [3659]

Q. Has your organization adopted any position of opposition to Bridges based on his organization of agricultural workers?

Mr. Del Guercio: I will object to that question. It doesn't make any difference whether it has or not.

(Testimony of George A. Graham.)

Presiding Inspector: I don't know as it does but—

Mr. Del Guercio: (Interposing) We are not interested in Harry Bridges' Union activities.

Presiding Inspector: (Continuing) —I will take it. This is to show hostility, prejudice.

A. Our County affiliate, as I stated before, is opposed to a compulsory closed shop.

By Mr. Grossman:

Q. Will you state whether the state organization of the Associated Farmers has taken any position on the organization into the union of agricultural labor?

Mr. Del Guercio: I object to that, if your Honor please, as going far afield.

Mr. Grossman: The reason I am asking the question, I have reason to believe they have opposed Bridges on this issue. I am trying to refresh his recollection.

Presiding Inspector: What issue?

Mr. Grossman: Over the organization of agricultural labor.

Presiding Inspector: The fact that they have opposed [3660] Mr. Bridges doesn't necessarily show hostility. There might be a difference of opinion here.

Mr. Grossman: Not necessarily. The vehemence with which they oppose it, I think, which this witness will admit, indicates it, and attributing of the agricultural organization, or the threat of it,

(Testimony of George A. Graham.)

to Bridges also, an indication of hostility, and the blaming of the CIO agricultural organization, to the extent that there is that in California, to Harry Bridges is an indication of hostility.

Presiding Inspector: You have all that in there already.

Mr. Grossman: I don't think so. He stated they were opposed to a closed shop.

Presiding Inspector: He stated that the participation in what he considers as subversive enterprises is one ground; and the second ground is his favoring the closed shop. Now, what more can you show than that?

Mr. Grossman: Well, it seems to me, your Honor—

Presiding Inspector: You want to go into details?

Mr. Grossman: As I understand it—I may be wrong—the Associated Farmers of California have clearly stated that they oppose, not only what Mr. Graham has called the compulsory closed shop, but they oppose all unionization of the agricultural workers.

Presiding Inspector: Why don't you ask him that?

Mr. Grossman: I will ask him that. [3661]

Mr. Del Guercio: I object to that.

Presiding Inspector: I will allow it.

By Mr. Grossman:

Q. Do you know whether the Associated Farmers

(Testimony of George A. Graham.)

of California now take the position, or have in the past on occasions taken the position that they are opposed to the unionization of agricultural workers?

Mr. Del Guercio: I object to that question, if your Honor please.

Presiding Inspector: I will overrule the objection and take the answer.

A. To my own knowledge they have taken no such stand.

By Mr. Grossman:

Q. Mr. Graham, did you ever see Mr. St. Clair again after this first conference with Mr. Norcne?

A. Yes, I think I did.

Q. When was the next occasion?

A. Well, I can't state specifically. After all, this was a couple of years ago. I haven't thought of it since. But I must have seen him two or three times, perhaps, because he left some luggage, I believe, in my office, when he went to Los Angeles. He came back to my office to pick up his luggage.

Q. Did you ever lend or give Mr. St. Clair any money? A. Yes.

Q. How much? [3662]

Mr. Del Guercio: I object to that, if your Honor please, as not being material to the issues in this case.

Presiding Inspector: I will take it.

A. The night I brought St. Clair to Anaheim he was very anxious to go to work. I told him I had no time then to take him to his job. I

(Testimony of George A. Graham.)

reminded him that he was to remain in San Francisco until work was found.

He asked if he couldn't clean up my office, or do some little job, and was quite insistent, and I said, "What is the matter, are you out of money?"

He said "Yes. I have only 25 or 35 cents," I think he said.

I gave him a couple of dollars to get a room. He said he wanted a 50-cent room.

When I finally took him to the job he had on his regular clothes that he had on when I picked him up. I asked him if that was all the clothes he had. He said it was. I gave him, or loaned him \$2.00 or \$3.00 more to buy overalls.

That is the story.

By Mr. Grossman:

Q. Did you charge those sums of money to the Associated Farmers, or did you put them out of your own account?

A. Out of my own pocket.

Q. Isn't it true, Mr. Graham, that the Associated Farmers have adopted a position of hostility to Harry Bridges because of his opposition on the question of hot cargo? [3663]

Mr. Del Guercio: If your Honor please, in connection with this line of inquiry I would like to suggest to the Court that counsel has submitted an affidavit in support of their request for a subpoena, and I believe that in their affidavit, making the request for the subpoena, they stated certain

(Testimony of George A. Graham.)

things that they were calling this witness for; that is, on the question of bias and veracity of the witness, St. Clair.

Am I correct?

Presiding Inspector: I don't know. I have forgotten.

Mr. Del Guercio: Don't you think, if the Court please, that we should go to the affidavit to determine that?

Presiding Inspector: Have you a copy there?

Mrs. King: I don't believe I have a copy, but I am quite certain that the affidavit was secured on the basis that I wanted to inquire as to the inducements made by this witness to the witness Wilmot—

Mr. Del Guercio: (Interposing) Wilmot?

Mrs. King: I mean, to the witness, St. Clair.

Presiding Inspector: I haven't the affidavit before me.

Mr. Del Guercio: But not as to the attitude of the Associated Farmers, whatever it is, towards Harry Bridges, I am quite sure.

Presiding Inspector: Have you a copy?

Mr. Del Guercio: I haven't.

Presiding Inspector: I think the application has gone to [3664] Mr. Wixon.

Mr. Grossman: I would like to say this about it, your Honor: We now only have the recollection of Mrs. King as to what it says. Mr. Del Guercio undoubtedly is referring to the rule that says it must specify. And I believe the rule also

(Testimony of George A. Graham.)

says the examination under subpoena is confined to that subject.

Now, in the first place, it is obvious that that will have to be liberally interpreted.

Second, even assuming that we were restricted in the examination under the subpoena, it would seem to me true—certainly it would be true in a court—that we would have a right to examine the witness not under the subpoena. In other words, if he came in court and he took the stand, we can examine him not under the subpoena. However, if the witness refused to stay and he decided to run out then; of course, we would not be able to ask the questions. If he stays in court, however, then we are not so restricted by the subpoena.

It seems, no matter what it says, that it should be liberally interpreted. We have a right to go into this unless the witness wants to run out of the room.

Presiding Inspector: I agree, and I think counsel will agree, that it should be liberally interpreted.

Now, what was the question?

Mr. Del Guercio: I agree it should be liberally inter- [3665] preted, but if this was in the mind of counsel at the time the affidavit was made out then I say that they should be held strictly accountable to it for not including it in the affidavit because that would be obviously imposing upon the court.

Presiding Inspector: I suppose that is so.

Mr. Del Guercio: And abusing the process.

(Testimony of George A. Graham.)

Presiding Inspector: I don't know as we can draw that conclusion.

What is the question? We talk so much that we lose the question.

Mr. Grossman: I think I can rephrase it, if you prefer.

Presiding Inspector: Let the reporter read it.

(The question referred to was read by the reporter as follows:

"Q. Isn't it true, Mr. Graham, that the Associated Farmers have adopted a position of hostility to Harry Bridges because of his opposition on the question of hot cargo?")

Mr. Del Guercio: I object to that as being improper, and on the further ground that it is leading and suggestive, no foundation having been laid.

Presiding Inspector: I think I will take it—"Yes" or "No." We are not going to try the merits of that controversy.

A. It is hard for me to answer that question because I would have to know what was in the minds of my directors. Of course, I am a paid executive.

Presiding Inspector: You know of nothing on that? [3666]

The Witness: No. I don't believe I can answer the question intelligently.

By Mr. Grossman:

Q. Isn't it true, Mr. Graham, that part of the hostility of the Associated Farmers toward Harry

(Testimony of George A. Graham.)

Bridges, or the opposition to Harry Bridges, is based upon his opposition to Proposition No. 1, the measure that was on the ballot?

Mr. Del Guercio: Now, we are trying Proposition No. 1.

Mr. Grossman: I am—whether right or not—finding out what the basis was.

Presiding Inspector: I can't see that this makes any difference. Supposing they were opposed to him because he was a member of the Liberal Party, or any other party, would it make any difference?

Mr. Grossman: I want to show the basis of their hostility by a more definite description.

Presiding Inspector: He has stated to you that he is of the opinion that Mr. Bridges is undesirable and should be deported. How can you make it any stronger than that?

Mr. Grossman: In this way: It is quite obvious to me, I say, until I have asked the questions, and even then—

Presiding Inspector: I don't know what the matters are you are talking about.

Mr. Grossman: They are all labor matters. I wish to show that the hostility of the Associated Farmers and Mr. Graham is [3667] based primarily on the trade union position of Mr. Bridges, and I am giving four or five of what I think are the most important examples—and that is the reason I have selected them—and they have taken a stand on each of these with respect to Harry Bridges. I want to show this as a strong anti-trade basis.

(Testimony of George A. Graham.)

Presiding Inspector: The main point of this is it shows the basis for the prejudice of this witness?

Mr. Grossman: Yes.

Presiding Inspector: If there is one. That is all.

Now, I don't get what the Associated Farmers have to do with it.

Mr. Grossman: He stated, in so far as he recalls them, he agrees with the position of the Associated Farmers on Bridges. Now, if he recalls them, took this position or that on Bridges, I am assuming he agrees with all of those. In other words, I am refreshing his recollection as to other bases for the position the Associated Farmers took on Harry Bridges.

Presiding Inspector: That is very remote, but I will allow it.

Mr. Del Guercio: Can you show hostility by showing a man is opposed to a political question? Why this country was founded on opposition, opposition of ideas.

Presiding Inspector: But the bias of this witness is a basis for judging his credibility. That is all. I will take it. [3668]

A. I would say that Mr. Bridges' support of Proposition No. 1 made no difference as far as our attitude toward him is concerned.

By Mr. Grossman:

Q. You mean his opposition to Proposition No. 1?

A. Yes; that is right.

(Testimony of George A. Graham.)

Q. But there was, was there not, a definite opposition in the position taken by the Associated Farmers and Harry Bridges on the question of Proposition No. 1?

Mr. Del Guercio: If your Honor please, I object to that. Proposition No. 1 apparently is a political question.

Presiding Inspector: I don't know.

Mr. Del Guercio: Proposition No. 1—I presume he means on the ballot?

Mr. Grossman: It was recognized by the labor movement as a trade union question and it went on the ballot, that is true.

Presiding Inspector: I don't see what trade unions questions as such have to do with this case.

Mr. Grossman: They may not have to do with it as such, but for the purpose of correctly defining the opposition of this man, and the Associated Farmers, to Harry Bridges, we must define them in the terms of trade union questions because those were the primary ones which are the basis of the opposition.

Presiding Inspector: He has already admitted opposition. [3669] What more can affect his credibility?

Mr. Grossman: I want the details.

Presiding Inspector: You think it deepens bias?

Mr. Grossman: Yes.

Presiding Inspector: Very well. I will take it. Go ahead.

(Testimony of George A. Graham.)

By Mr. Grossman:

Q. Isn't it true, Mr. Graham, that part of the opposition of the Associated Farmers to Harry Bridges was based on the fact that Harry Bridges was advocating, and the Associated Farmers were opposed, to the creation of Government camps for migratory workers?

Mr. Del Guercio: Now, we are going to migratory workers. I object to the question as being ambiguous and general.

Presiding Inspector: I will take it. I don't know what migratory workers are, except through the work of fiction.

Mr. Grossman: And which they rejected.

By Mr. Grossman:

Q. What is the answer?

Mr. Del Guercio: He suggested—counsel has told the witness that California opposed it.

Presiding Inspector: We have a very intelligent witness here. We will hear him.

A. I don't know as I am entirely familiar with Mr. Bridges' position on the migratory, or the migration of workers [3670] into California.

The position of our organization was that the migration should be limited to those whom the industry could absorb and take care of.

By Mr. Grossman:

Q. I was talking about the setting up of Government camps for migratory workers.

A. Pardon.

(Testimony of George A. Graham.)

Mr. Del Guercio: I object to that question. The witness stated he doesn't know Harry Bridges' position on that question.

Mr. Grossman: The witness stated he misunderstood it.

Presiding Inspector. I will take it.

By Mr. Grossman:

Q. I am concerned with the matter of setting up additional government camps for migratory workers. That is the issue. Was there opposition on the part of the Associated Farmers to Harry Bridges because of his position on that?

A. Again, I will have to say I don't know what his position was. I never heard that discussed in one of our meetings as being opposed to Harry Bridges, because of that stand.

Our stand was that camps should be under private enterprise, rather than under governmental control.

Mr. Grossman: No more questions.

Presiding Inspector: Any questions? [3671]

Mr. Del Guercio: Just a few.

Cross Examination

By Mr. Del Guercio:

Q. Where were you born, Mr. Graham?

A. Des Moines, Iowa.

Q. Are you an American citizen?

A. Yes, sir.

Q. Are you attached to the principles of the Constitution of the United States?

A. Yes, sir.

(Testimony of George A. Graham.)

Q. Are you well disposed to the good order and happiness of the United States? A. Yes, sir.

Q. Do you think that it is reprehensible for any individual, whether he is a member of a trade union, employers' organization, or what-not, to inform Governmental agencies of your Government, and my Government, that subversive activities are taking place in those organizations?

A. I think it is a citizen's duty.

Mr. Del Guercio: That is all.

Mr. Grossman: That is all.

The Witness: May I be excused permanently?

Mr. Grossman: That is all.

Presiding Inspector: You are excused permanently as far as I know.

(Witness excused.) [3672]

Mr. Grossman: Our next witness is William Hynes, but he is not in the room where I told him to wait. I don't see him in the hall. I wonder if the guard will call out for him?

Presiding Inspector: Call the name of William Hynes.

A Guard: Here he is.

Presiding Inspector: Raise your right hand.

WILLIAM F. HYNES

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Gladstein:

Q. Will you state your name, please?

A. William F. Hynes—H-y-n-e-s.

Q. And your business?

A. Police officer, City of Los Angeles.

Q. How long have you been with the City of Los Angeles Police Department?

A. Approximately nineteen years.

Q. Continuously?

A. With the exception of a period of about six and one-half or seven months.

Q. When did that period of six and one-half or seven months occur?

A. In 1934, the latter part of 1934, until August of 1935.

Q. That is, you were not connected with the Police Force [3673] during that period?

A. That is correct.

Q. And at the end of this interval you again became connected with the Police Department and have remained so connected ever since?

A. Yes. I was on leave of absence from the Police Department.

Q. I didn't hear you.

A. I was on leave of absence during this period and when my leave was up I returned.

(Testimony of William F. Hynes.)

Q. Have you been on any leave of absence since your return on that occasion?

A. No, I have not.

Q. And you are now connected with the Department, are you? A. Yes.

Q. In what capacity?

A. As a police officer.

Q. Have you ever worked for the FBI?

A. Ever worked for the—

Q. (Interposing) Have you ever worked for the FBI? A. No, sir.

Q. When I say "worked", I don't mean they had you on their payroll, but have you ever worked with them or performed service for them?

Mr. Del Guercio: If your Honor please, I object to that [3674] question. What difference does it make?

Presiding Inspector: I will take it.

Mr. Del Guercio: Every police officer works for the Governmental agencies in the sense that counsel states it.

Presiding Inspector: I think there may be a little misunderstanding as to what is meant by the word "work."

By Mr. Gladstein:

Q. Do you understand the question?

A. If you mean have I cooperated with them, yes, with all Governmental agencies.

Q. I don't mean in the sense that any police officer might cooperate with another governmental agency. I want to know whether you have served

(Testimony of William F. Hynes.)

or performed services of a particular or special character for the Federal Bureau of Investigation which you would not otherwise have performed except for special requests or appointment?

Mr. Del Guercio: If your Honor please, I object to that question. It is none of counsel's business what kind of duties he has performed for the FBI. Certainly this isn't an inquisition for the benefit of counsel as to what kind of work any police officer may have done at any particular time or generally for any governmental agency. It should be limited, I think, to the inquiry of this hearing here.

Presiding Inspector: I don't know. This is preliminary, I suppose. I think I will take it.

A. I can answer that question generally in this way: [3675] To state that my present designation may be assumed as a Department liaison officer to the various Federal Departments.

As to the particular designated duties that I perform with these various Governmental agencies, I don't think it would be to the best interests of the public to disclose it.

By Mr. Gladstein:

Q. I haven't asked you about your special duties. I have only asked you whether or not you have, since you have been a police officer—

Presiding Inspector: He said he has been sort of a liaison officer. Isn't that as clear as you can get it?

(Testimony of William F. Hynes.)

By Mr. Gladstein:

Q. You say a liaison officer. I take it that is between the Los Angeles Police Department on the one hand and—

A. (Interposing) That is correct.

Q. (Continuing) —and the Governmental agencies on the other? A. Yes; correct.

Q. You mean the FBI on the other hand?

A. Not necessarily; other governmental agencies, the Post Office Department—

Q. (Interposing) First let me ask this: Are you, or have you been a liaison officer between the Los Angeles Police Department and the Federal Bureau of Investigation?

A. That is included; yes, sir. [3676]

Q. What?

A. That is included among the others.

Q. When did that begin?

A. It began, to the best of my knowledge, shortly after the President of the United States called upon all law enforcement agencies to assist the branches of the Federal Government. That was some time in 1939, I believe.

Q. Can you fix it more definitely than that, Mr. Hynes?

A. No, I can't without reference to a communication.

Q. And since that time in 1939 have you continued in that capacity that you have just described as a special liaison officer?

A. Yes, except that I have performed other du-

(Testimony of William F. Hynes.)

ties for the Police Department. I have been an investigator for the Police Department.

Q. But in a general sense, since 1939, when this special function began to be performed by you; would it be correct to say that you have not performed the kind of duties that you were performing as a patrolman on the Los Angeles Police Department prior to that date?

A. Well, I can't say that I am qualified to speak on the duties of a patrolman. I have never performed the duties of a patrolman on the Los Angeles Police Department.

Q. What have your positions been with the Los Angeles Police Department?

A. Well, it has been as an under-cover agent, when I [3677] first went on the Police Department; as a member of the Communist Party, as a member of the IWW; and then later in an investigative capacity for an investigating bureau that was established by the Los Angeles Police Department.

Q. Do you remember the name of the bureau?

A. It had no particular name at that time when I first started in—just an investigative unit. Later on I became head of what they call the Intelligence Bureau of the Los Angeles Police Department.

Q. What is the date when that began?

A. That began, that was organized under Chief August Vollmer.

Q. I didn't ask you who organized it. I just asked you the date, if you remember.

A. I can't remember the specific date.

(Testimony of William F. Hynes.)

Mr. Del Guercio: The question has been answered.

By Mr. Gladstein:

Q. Can you give us the year or the approximate year? A. Probably 1926 or 1927.

Q. And for how long after 1926 or 1927, did you remain in the position of being attached to the Intelligence Division of the Los Angeles Police Department?

A. Well, for the last, I would say, the last ten years preceding November 1938 I was actively in charge of that Bureau.

Q. What occurred in November 1938? [3678]

Mr. Del Guercio: If your Honor please, I object to that—when did the Johnstown Flood occur? What occurred in the year 1938?

By Mr. Gladstein:

Q. Did you understand the question?

Presiding Inspector: He says there was a change in his position at that time.

By Mr. Gladstein:

Q. Did you understand I was asking you—

Presiding Inspector: It is in reference to that.

By Mr. Gladstein:

Q. What happened with respect to your position?

A. I was transferred to West Los Angeles, to the West Los Angeles Division, to the "sticks", so to speak, as they call it.

Q. What were your duties then?

(Testimony of William F. Hynes.)

A. I was assigned to the Detective Bureau with the Los Angeles Police Division.

Q. That is—withdraw that. I don't know whether you stated this, but I would like to know whether, during the period that you have mentioned, 1926 or 1927 until November 1938, your position was the head of the Intelligence Division, I think you said?

A. I said ten years preceding November 1938 that I had been—

Q. (Interposing) The head of it? [3679]

A. Yes. Prior to that time I was connected as an investigator with it.

Q. Now, in November 1938 I think you said that your position as head of the Intelligence Division was terminated, is that correct?

A. Correct.

Q. And then when did you become the liaison officer with the functions that you have described?

A. To the best of my recollection, as I stated before, at the time the President addressed his letter to all law enforcement agencies to cooperate with the various Governmental agencies in the matter of national defense and internal security.

Q. Was there some special designation or assignment made with respect to yourself?

A. At that particular time I was designated as a liaison officer.

Q. By whom were you then so designated?

A. By the then Deputy Chief of Police, or Chief of Police, of the Department.

Q. Of the City of Los Angeles?

A. Yes.

(Testimony of William F. Hynes.)

Q. Do you remember his name?

A. Well, I don't know. I received a transfer and was told to report to the Deputy Chief of Police in charge of Investigation.

Q. While you were head of the—withdraw that. I want [3680] to ask you, so I can use this same expression, exactly what was the name of the Division or the Department of which you were the head for the ten-year period before November, 1938?

Mr. Del Guercio: I object to that question. Counsel has already asked him that a number of times.

Presiding Inspector: He wants to know what the name was now.

A. The Intelligence Bureau.

Mr. Gladstein: The Intelligence Bureau.

Presiding Inspector: We will take a short recess.

(Whereupon a short recess was taken.)

[3681]

Mr. Gladstein: Ready, your Honor?

Presiding Inspector: Yes.

By Mr. Gladstein:

Q. Mr. Hynes, the Intelligence Bureau of which you were the head, is that still in existence?

A. Of which I was the head?

Q. Yes.

A. It is obvious it couldn't be in existence. I am no longer there.

Q. No; I say the Intelligence Bureau of which you say you were the head between 1926 and—

(Testimony of William F. Hynes.)

A. (Interposing) No, that is no longer in existence.

Q. When did it cease to exist?

A. With my transfer.

Q. Now, you were served with a subpoena, were you not, to bring certain documents to this Court?

A. Yes, sir.

Q. Did you bring documents in response to that subpoena?

A. I brought such documents that were left, that I could find, in answer to the subpoena, that hadn't been taken by some Communist out of our files.

Q. What do you mean by that, Mr. Hynes?

A. I mean that——

Mr. Del Guercio: If the Court please, at this time may I [3682] ask that I be permitted to see the affidavit upon which this subpoena was issued so that I may——

Presiding Inspector: (Interposing) The District Director of the Immigration and Naturalization Service——

Mr. Del Guercio: (Interposing) Were copies retained?

Presiding Inspector: No.

The Witness: I have mine.

Presiding Inspector: The witness has it.

Mr. Del Guercio: May I see it?

Presiding Inspector: It is just a subpoena, though, not the affidavit.

The Witness: I have a statement here.

Presiding Inspector: Let me see what it is.

(Testimony of William F. Hynes.)

(Whereupon, the witness handed the document referred to to the Presiding Inspector.)

Presiding Inspector: (Examining document)

No, it is simply the subpoena. You may look at it.

(Whereupon, the document was handed to Mr. Del Guercio.)

Mr. Del Guercio: The subpoena. What I had in mind was the affidavit presented to your Honor.

Presiding Inspector: That has gone to Mr. Wixon.

Mr. Del Guercio: That has gone to Mr. Wixon.

By Mr. Gladstein:

Q. Now, Mr. Hynes, you made a statement that you brought in response to the subpoena such documents as you [3683] could find which had not been taken out of the files by some Communists.

A. I said by a Communist.

Q. By a Communist? A. Yes, sir.

Q. What did you mean by that?

A. I mean that the LaFollette had in its service—not in its employ—an employee loaned to them by the National Labor Relations Bureau who is a Communist.

Q. Whom are you referring to?

A. I am referring to Mr. Dave Sokel.

Q. Do you know him to be a Communist?

A. Well, I think I know him to be a Communist, yes.

Q. Do you know him to be a Communist of your own knowledge?

(Testimony of William F. Hynes.)

A. Yes, I know him to be a Communist. I know he has addressed meetings and substituted for William Schneidermann, ILD meetings at Los Angeles years ago. I know that I signed——

Q: (Interposing) How many years ago?

Mr. Del Guercio: Let the witness answer. He hadn't finished his answer.

The Witness: I know that in September, 1928 when he resides on Kent Street that he signed a petition to put the Communist Party on the ballot.

By Mr. Gladstein: [3684]

Q. What else do you know about him?

A. He also signed a petition at the same time to put the State Chairman of the Communist Party on the ballot, Anita Whitney. Oh, I know in a general way through sources of information that he was very closely connected with the Communist Party, at one time was associated with the Council for the ILD.

Q. Let's see if we can summarize this. In 1928 you say that he signed a petition——

Presiding Inspector: (Interposing) Why summarize? You have got it all.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Now, is that all the information upon which you base the statement that Mr. Sokel is or was a Communist?

A. I would say that the statement alone that he signed a petition to put the Communist Party on

(Testimony of William F. Hynes.)

the ballot tended to indicate his leanings toward Communism.

Q. Do you know how many people there were who signed such petitions in 1928?

A. Yes, there was quite a number of them.

Q. About a hundred thousand, wasn't there?

A. I know a lot of them disowned such statements after they found out that put them on record as being a Communist.

Q. You say when they—— [3685]

A. (Interposing) Judge Beardsley in Los Angeles came out and said anybody that signed those petitions had put themselves in the position of being a Communist.

Q. Weren't there about a hundred thousand people who signed such petitions?

A. I wouldn't say one hundred thousand, no. I would say I have the signatures in Los Angeles of possibly four or five thousand, or six thousand that signed them.

Q. That is in Los Angeles alone?

A. That I had in my possession. That is all I was able to get ahold of at that time; there may have been more.

Q. All right. Now, you say he took some documents from the files?

A. He had charge of the LaFollette investigators whom the Police Department knew nothing about, who they were, or as to their background, and he had a number of people working for him on the Police Department files.

(Testimony of William F. Hynes.)

Q. Do you know who these people were?

A. The Police Department was never given any information as to who they were, no list of who they were, or never were they given a list of documents that were taken from the files of the Police Department, never were.

Q. Excuse me a moment. Did these people take documents from files of the Police Department?

[3686]

A. Well, they had taken them over there, had them photostated, took them from our office to copy, took them away from the Police Department, out of the Police Department hands. As a matter of fact, a lot of them appeared in the Bridges' hearing last year. You people had them up here.

Q. Were you present at that hearing?

A. No. I know you called for them. You advertised certain ones; you sent down and had me sign an affidavit on one that we couldn't find in our files.

Q. Do you remember which one that was?

A. You have the affidavit; I made an affidavit. Presiding Inspector: Just answer his questions.

The Witness: The one from the Portland Police Department, that was missing from the files. We have never been able to find it since.

By Mr. Gladstein:

Q. As a matter of fact, Mr. Hynes, wasn't that request made for a letter from Harper Knowles, or rather from Larry Doyle, Stanley M. Doyle to

(Testimony of William F. Hynes.)

Harper Knowles? I withdraw that. As a matter of fact, the letter that was requested by subpoena in that case two years ago, Mr. Hynes, was a letter from Stanley M. Doyle to you containing references to John L. Leech, wasn't it?

A. No, that is not the letter that I gave the affidavit for. [3687]

Q. You made an affidavit, I think you said concerning that letter, did you not?

A. I made an affidavit, concerning a letter, yes.

Q. That is the letter that was requested?

A. Some letter that you requested, yes.

Presiding Inspector: Go ahead.

Mr. Gladstein: I am waiting until they have examined it.

Presiding Inspector: That is so; Mr. Del Guercio is reading.

By Mr. Gladstein:

Q. Now, Mr. Hynes, I will show you what purports to be a photostat of an affidavit purporting to have been made by yourself on the first day of September, 1939 and which bears on it a designation "Alien 136"; it having been an Exhibit in the last case. I will ask you to examine it—

Mr. Del Guercio: (Interposing) If the Court please, I believe that counsel—of course, this is his witness, I realize—should state to the Court and to the witness that the letter is not one, as he stated, from Stanley M. Doyle to John L. Leech, but from Stanley Doyle to Hynes.

(Testimony of William F. Hynes.)

Mr. Gladstein: I did so state and if Mr. Del Guercio would keep his ears open he would have heard that. I will have the last question read back.

Mr. Del Guercio: My ears may not be as big as yours.

Presiding Inspector: Now, just a moment. Let's not get [3688] into these controversies?

What was the question?

(The question referred to was read by the reporter as above recorded.)

Mr. Gladstein: I don't think there is anything in the Exhibit I am showing the witness which will show that I have misled the witness on that question.

By Mr. Gladstein:

Q. Now, I want to ask you—

A. (Interposing) There is no reference in here to John L. Leech that I can see.

Q. Mr. Hynes, I want to ask you whether you recognize the document you have in your hands as being a photostat of the affidavit which you submitted in the 1939 hearings?

A. (Examining document) Yes, this is the one. I apparently signed the affidavit that I made down there.

Q. You recognize your signature or a photostat of it?

A. Yes, but I don't see any reference here to Leech in here.

Q. All right. Now, let's read that.

(Testimony of William F. Hynes.)

“State of California——”

Mr. Del Guercio: (Interposing) If your Honor please, I object to reading the document.

Presiding Inspector: What is the point of this?

Mr. Gladstein: Well, this is the document, your Honor, which the witness says—this is, the letter which he says [3689] we produced in the way that he has already characterized before I read it.

The Witness: I didn't particularly only limit it to one document.

Mr. Gladstein: Yes.

The Witness: I said several documents.

Presiding Inspector: Just a moment. What is the point of it?

Mr. Gladstein: I will come to that in a moment.

Presiding Inspector: Are we going to have something material from this witness?

Mr. Gladstein: Yes.

Presiding Inspector: I don't suppose you would call him if you weren't. It seems to have run off on a side issue.

By Mr. Gladstein:

Q. Mr. Hynes, do you know whether or not we obtained a copy of that letter to you from Stanley M. Doyle, from Mr. Doyle?

Mr. Del Guercio: If your Honor please, I object to any reference——

Presiding Inspector: (Interposing) I don't know anything about the letter. There was a letter that was not found.

(Testimony of William F. Hynes.)

Mr. Gladstein: Mr. Hynes said it was not found. [3690]

The Witness: Not found.

Mr. Gladstein: He said we called for it. He tied this up with the missing documents in the files.

Presiding Inspector: Well, what difference does it make? Now, there isn't more, is there?

Mr. Gladstein: Well, I want to pursue this on the basis of the witness' statements as to where this letter came from. I think we have a right to that, your Honor.

Presiding Inspector: Well, I don't understand the point you are getting at, nor the purpose of it. I don't understand about the letter.

Mr. Gladstein: The witness first of all has made certain statements, your Honor, which I intend to show are not true and which I will claim reflect his hostility to us and which I will ask the Court to take into consideration as one of the bases for permitting me subsequently in this examination—

Presiding Inspector: (Interposing) So far he has not acted as though he were hostile.

Mr. Gladstein: (Continuing) —to ask leading questions.

Presiding Inspector: I don't think you have any ground to complain about it.

Mr. Gladstein: I will show—I will offer to show that his relationship to the cause, to this case, to the defense is such that we have a right to treat him as an adverse or hostile witness. Now, he has

(Testimony of William F. Hynes.)

already made statements with [3691] respect to a letter that we requested in the 1939 hearing.

Presiding Inspector: Yes.

Mr. Gladstein: These statements are in the record.

Presiding Inspector: The statements are. As I understand it, the letter was not in his files and he made an affidavit to that effect. Now, what more is there?

Mr. Gladstein: That isn't all. He also said that the letter was not in his files and he said that there were documents taken by a Communist and that these documents either showed up in our possession during the last hearing or that we asked for them.

Presiding Inspector: Yes.

Mr. Gladstein: Now, he mentioned one specific document, that is the one that was requested, and this is the one which is in the affidavit that I have just shown him, the photostat that I have just shown Mr. Hynes.

Presiding Inspector: Haven't you got everything that you want?

Mr. Gladstein: Not yet.

Presiding Inspector: Do you want to prove the contents of that letter?

Mr. Gladstein: No; I may want to do that later on.

Presiding Inspector: Unless you want to do that I shouldn't think there would be much use in going further.

(Testimony of William F. Hynes.)

Mr. Gladstein: I first want to ask this question;
[3692]

Presiding Inspector: Of course, you have a right to ask anything you think is proper.

Mr. Gladstein: I want to ask him whether he can state of his own knowledge that we did not get a copy of this letter mentioned in Mr. Hynes' affidavit from Mr. Doyle.

Presiding Inspector: Well, how would he know that?

Mr. Del Guercio: I object to that.

Mr. Gladstein: I want that in the record. Of course, he wouldn't know that. He made a statement as to where we did get it. Of course, he doesn't have any knowledge as to that.

Presiding Inspector: I know, but people have been testifying here to hearsay right straight along.

Mr. Gladstein: Yes, I know.

Presiding Inspector: You have asked it right straight along and your adversary has asked it.

Mr. Gladstein: Yes; but we don't have to sit here and not be able to examine a witness who makes charges of that sort and we haven't a chance to——

Presiding Inspector: (Interposing) I don't think there are any charges so far.

Mr. Gladstein: Well, I construe them as such.

Mr. Del Guercio: He brings the witness up here, makes his issue and then argues about it. I wonder what we are trying to do here. [3693]

(Testimony of William F. Hynes.)

Presiding Inspector: Well, we are trying to get ahead with this Bridges' case.

Now, go ahead, Mr. Gladstein, if you think this is proper.

Mr. Gladstein: I do.

Presiding Inspector: I will allow it.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Now, Mr. Hynes, you have no knowledge, do you; but what this letter sent by Larry Doyle to you, or a copy of it, might have been obtained by the defense counsel in the 1939 hearing from Mr. Doyle?

Mr. Del Guercio: Your Honor, I will object to that question.

Presiding Inspector: I will sustain it. Now, you are examining him as to possibilities. I can't understand how they are material.

Mr. Gladstein: I will ask it this way:

Q. Do you have any knowledge, Mr. Hynes, as to where the defense counsel obtained information concerning—or a copy of the letter from Doyle to you mentioned in your affidavit?

Mr. Del Guercio: If your Honor please, I object to that as being incompetent and immaterial.

Presiding Inspector: I will take that.

That is, have you any information, any knowledge— [3694]

Mr. Gladstein: (Interposing) Any knowledge.

Presiding Inspector: Any knowledge as to

(Testimony of William F. Hynes.)

where—I don't want it by hearsay but by knowledge.

The Witness: Well, I can't say it by knowledge, your Honor, then.

By Mr. Gladstein:

Q. The answer is no? A. No.

Q. Now, you say that this letter did not refer to John L. Leech: It referred to him, although not by name. Isn't that true?

Mr. Del Guercio: Well, your Honor, I object to any questions on that letter at all.

Presiding Inspector: How is that material? The contents of the letter now we want, don't we? Are you trying to prove the contents of the letter? Of course, I haven't seen this document.

Mr. Gladstein: Do you want to see it, your Honor?

Presiding Inspector: No, I don't, unless you want to show it to me.

Mr. Gladstein: Well, I will withdraw that question.

By Mr. Gladstein:

Q. Now, in response to the subpoena what did you bring? Do you have it with you?

A. Yes, I brought certain documents. [3695]

Presiding Inspector: Don't misunderstand me. Let me go back a minute. I am not excluding the contents of this letter, you understand that?

(Witness handed documents to Mr. Gladstein.)

(Testimony of William F. Hynes.)

Mr. Gladstein: Thank you.

The Witness: There is a series of several of those documents. If they are intended to be introduced may I ask that I be allowed to submit photostatic copies in lieu of the originals?

Mr. Gladstein: No objection from me. I assume that will be satisfactory all the way around.

Mr. Del Guercio: I don't know if they are going to be offered.

Presiding Inspector: Well, we will take that up later.

Mr. Gladstein: I just wanted to know as far as I am concerned. I don't want to deprive you of your original records.

By Mr. Gladstein:

Q. Now, where did you obtain this batch of documents you just handed to me?

A. I obtained those from what was left, what the LaFollette Committee returned to us from what they had taken.

Q. Well, this—

A. (Interposing) They were among the files returned by the LaFollette Committee.

Q. These are files which the LaFollette Committee at one time took from— [3696]

A. (Interposing) That is right.

Q. —from the official files of your Intelligence Bureau? A. That is right.

Q. And subsequently after their investigation, or whatever it was, these that you have just handed me clipped together were returned to you?

(Testimony of William F. Hynes.)

A. That is right.

Mr. Del Guercio: If your Honor please, that isn't what the witness has testified to. This is what remained.

The Witness: Of the ones you called for in the——

Mr. Gladstein: (Interposing) Yes, I understand.

Presiding Inspector: I think that is what the witness, in substance, said.

Mr. Gladstein: That is right; that is what I thought.

By Mr. Gladstein:

Q. And do these documents which you handed me, Mr. Hynes, represent the actual original documents in your files prior to the removal of those documents by the LaFollette Committee?

A. I can't state specifically as to one of those documents ever being in our files, as a matter of fact.

Q. Why did you bring that, then?

A. Well, it was—it come out of the material that was in the LaFollette——

Q. (Interposing) Which document? [3697]

A. The top document.

Q. Yes. Let's put that one aside.

A. It came out of the material you called for.

Q. Is this the one you mean?

A. (Examining document) It was among the documents returned by the LaFollette Committee.

Presiding Inspector: Let's see it.

(Testimony of William F. Hynes.)

By Mr. Gládstein:

Q. Is this the document, the one I am handing to the Judge?

A. (Examining document) That is right.

Q. How about the others?

A. The others I am familiar with. They are files of ours, and the reason I say that about this document, the document is irregular as to form and procedure of our Bureau. It appears that something is typed in, the word "B-50" is typed in there afterwards by somebody on the top of the document, not in accordance with our regular procedure whatever.

Q. Yes. The balance of the documents, are, without question in your mind—

A. (Interposing) Yes, and I have other documents here to substantiate what I have tried to tell you, and I can point out the notations.

Presiding Inspector: Well, never mind about that. [3698] We will hear what Mr. Gladstein wants to do about it. Then, we will go back to the other:

By Mr. Gladstein:

Q. Now, Mr. Hynes, the balance of the documents outside of the one that I have severed from the batch that you handed me—

A: (Interposing) Yes.

Q. (Continuing) —represent the actual correct originals that were in your file before the La-Follette Committee removed them and which have

(Testimony of William F. Hynes.)

not been tampered with so far as you are able to say? Correct?

A. I don't know if they are originals or not. I haven't—they may be duplicates.

Mr. Del Guercio: Just a minute! I don't know if I can quite understand this question. Have all the records of the Police Department been subpoenaed or certain particular ones?

Mr. Gladstein: No; certain ones on a subject matter dealing with Mr. Chase.

Presiding Inspector: They are under subpoena here.

Mr. Del Guercio: Then, the questions, I believe, were addressed to those documents rather than all documents?

Mr. Gladstein: I have confined my questions, your Honor, to the documents which the witness has brought.

Presiding Inspector: I understand. [3699]

Mr. Gladstein: That seems to be quite obvious.

A: I would say they are all originals with the exception of the affidavit which appears to be a copy.

By Mr. Gladstein:

Q. Yes.

A. And they were originally in our file before the LaFollette Committee came into existence, or came to Los Angeles.

Q. And since then they have been returned by the LaFollette Committee?

A. Yes, sir.

Q. And the documents you just handed me

(Testimony of William F. Hynes.)

which were so returned by the LaFollette Committee, have any of them, to your knowledge based on inspection been tampered with in any way? . .

A. (Examining documents) This mark here has been placed on there by me (indicating), this here, this mark here has been placed on there by me.

Q. Now, I mean tampered with by the LaFollette Committee or anybody else so that the documents as they now stand would be substantially different from the way they were before their removal from your files by the LaFollette Committee?

A. Well, I can't state as to that because—except where I have my notation of file on there, or something. [3700] There may be other notes by the stenographer or the file clerk on the sides.

Q. Can't you tell by examining the documents in your hand whether they have been tampered with in any substantial way?

A. (Examining documents) Well, I would say that the wording has not been changed.

Q. You would say that the wording has not been changed?

A. That is right.

Mr. Gladstein: All right.

Presiding Inspector: Don't you think you better have them marked?

Mr. Gladstein: We want to examine them first. We have no objection to having them marked for identification. Perhaps, they had better all be in a batch for that purpose, although, there should

(Testimony of William F. Hynes.)

be some special designation on the one we have singled out for special comment.

Do you think that is correct, your Honor?

Presiding Inspector: Yes, I think so, but if you do want to examine them first, I think you ought to be permitted to do that. That is quite all right.

Mr. Gladstein: Well, so there won't be any question raised later on, perhaps, they should be marked for identification.

(The documents referred to were marked Alien's Exhibits 16 and 17 for identification.)

[3701]

Mr. Gladstein: Alien's 16 for identification and Alien's 17 for identification.

By Mr. Gladstein:

Q. You know a man named Azra F. Chase, do you not? A. Yes, I do.

Q. Did he ever work for you as an informer? Did he ever supply you with information?

A. Yes, he supplied me with information.

Q. When did he begin doing that?

A. I would say sometime in 1937.

Q. What part of 1937?

A. I can't be specific as to that, whether it was the middle of June, July, or sometime like that, or February. I can't be specific as to that. I would say June would be closer.

Q. In what form was that information supplied you, Mr. Hynes?

A. Oftentimes in the—I had several conversa-

(Testimony of William F. Hynes.)

tions with him, and oftentimes telephone conversations in connection with, like for instance, in connection with his attending a meeting at which Harry Bridges spoke in Los Angeles. He called me on that particular meeting and told me that he had been designated by Lou Barron to attend a meeting on Washington Boulevard at which Harry Bridges was supposed to give the Party line. He called me with reference to that particular [3702] meeting.

Q. Well, now, suppose we start at the beginning, Mr. Hynes. Do you remember how the relationship began?

A. I haven't finished the answer. You said in what form did he supply this information. I am trying to finish that answer.

Q. Now, just let me ask you this:—

Mr. Del Guercio: If your Honor please, the witness should be permitted—

Mr. Gladstein: (Interposing) The witness is going beyond the scope of the question.

Presiding Inspector: Yes, the question is in what form.

Mr. Gladstein: In what form.

The Witness: I will stick to the form.

Presiding Inspector: By telephone message?

The Witness: Yes, documentary evidence such as you have there that I brought up, and he may have at times submitted a report, however, not under any particular number that I can recall be-

(Testimony of William F. Hynes.)

cause he was not a regularly, or an employed operator at any time.

By Mr. Gladstein:

Q. Let's see if I have this straight. Some of the information that—

Mr. Del Guercio: I object to that, if your Honor please. The record should show what the witness testified. [3703]

Presiding Inspector: I think under the circumstances I will allow it. I think in this case I will allow it. It is true that the record shows ~~it~~.

By Mr. Gladstein:

Q. Some of the information that he supplied you, Mr. Hynes, was in the form of personal conversations, others in the form of telephone conversations, and still others in the form of documents?

A. That is right.

Q. And those documents would be letters either written or typewritten by him?

A. The documentary evidence I referred to didn't refer to the reports. You are talking about reports now. He had sent me, I think, some written reports which I never made a policy to keep. If there was any information of value in them they would be transcribed on the typewriter and placed in the file, and if there wasn't they would be destroyed right then. We never made it a policy to keep written reports of operators, if there were such.

Q. Well, was he an operative?

(Testimony of William F. Hynes.)

A. I told you he was not a regularly employed operator or paid operative. He may be an operative in the sense you term an operative to be.

Q. Was he an operative?

A. If you want to term him a reformer you can call any [3704] reformer an operative.

Q. Did you say he did not have a designation?

A. By number?

Q. By number, letter or anything else?

A. He had no designation as an operator. The material that I received, as I recall at that time, it was placed in the general operatives' file.

Q. How would you know from whom you were getting the information?

A. From the party that the material pertained to.

Q. Well, would he sign his name?

A. Would call me up, talk to me, tell me.

Q. If he called you you would know who he was?

A. I said, "You can give me a little memorandum if you don't mind."

Q. Would he tell you who was speaking when he called?

A. Yes, if he called direct. Otherwise, I told him if he called me on the phone and somebody asked who it was that was calling to give them any number or say 50 or 60, or some number of that character.

Q. Now, have you brought the documents that were marked for identification, Mr. Hynes—are

(Testimony of William F. Hynes.)

they all the documents you were able to find dealing with Ezra F. Chase?

A. That is all the documents. I brought you the documents or a report of an operator other than Ezra Chase [3705] that was made by another operator on Ezra Chase. I brought you two documents of that character that I found and the rest of them are all the documents I could find in our files returned from the LaFollette Committee, or in our files pertaining to Ezra Chase which were submitted by him, and that is what you called for, either in writing or typewritten.

Q. Did you have more than one operative in the Furniture Workers Union which Chase was a member of?

Mr. Del Guercio: If your Honor please, I object to that.

Mr. Gladstein: Upholsterers Union, is the name of it. I will amend the question to say Upholsterers Union.

Mr. Myron: There is no evidence here that he was an informer for the Upholsterers Union.

Presiding Inspector: What?

Mr. Myron: There is no evidence here that he was an informer for the Upholsterers Union.

Mr. Gladstein: I will withdraw it and put it this way:—

Mr. Myron: He was an informer on subversive activities.

(Testimony of William F. Hynes.)

By Mr. Gladstein:

Q. Mr. Chase was a member of the Upholsterers Union? A. Yes, I believe so.

Q. He reported to you, did he not, on activities of that union?

A. He told me of Communist activities in that union, of the membership, the Executive Board, and on other illegal [3706] activities, such as bad squads were engaging in and strikes and things like that.

Q. Did you have anybody besides Mr. Chase informing you or operating for you in that Union?

A. I had somebody that was much higher than Chase, yes.

Q. You had one other?

A. Yes; not in that particular union.

Q. No, I mean in that local union?

A. I had a party that was in a better position than Mr. Chase was to know what was going on in all the unions.

Q. No; I still want an answer to my question.

Presiding Inspector: He wants to confine it to the Upholsterers.

The Witness: I can't confine it, your Honor, because, giving an illustration, if I have a man that is an operative on what we call the Trade Union Commission at that time in Los Angeles he would be in a position to know what is going on in all the unions.

Presiding Inspector: We won't include the Trade Commission for the moment.

(Testimony of William F. Hynes.)

By Mr. Gladstein:

Q. Mr. Hynes, do you remember the local union number of the Upholsterers Union of which Mr. Ezra Chase was a member?

A. I don't know if I do recall at this time.

[3707]

Q. It was Local 15, wasn't it?

A. Yes, sir, the one Mr. Chait was in.

Q. I am speaking of Ezra Chase. You know who I mean? A. Yes.

Q. All right. Isn't Local 15 the Union to which he belonged? A. I think so.

Q. Yes. Did you have any other informant or operative working for you who was in that Local Union?

Mr. Myron: Informant on Communistic activities in the Union, is that the question?

Presiding Inspector: It is the word that the witness has himself used so I think that he knows what he means by "informant".

Mr. Myron: I think his question should include that since that is the way the witness stated it.

Presiding Inspector: We will take that as the intention. Go ahead.

The Witness: I can't say definitely that I did have another operative within the Upholsterers Local Union 15. I will say, however, I had an operative who was very close to several Communists, who were members of Upholsterers Union Local 15.

(Testimony of William F. Hynes.)

By Mr. Gladstein:

Q. But as far as—

The Witness: (Interposing) Other than Ezra Chase. [3708]

Q. Other than Ezra Chase?

A. I mean that they were acquainted with Communist members within the Upholsterers Union, other than Ezra Chase.

Presiding Inspector: I think we get that.

By Mr. Gladstein:

Q. Let's see if I have this straight, Mr. Hynes.

Is it correct that Mr. Ezra Chase was the only person you can now recollect who, during this period in 1937, was a member of Local 15 of the Upholsterers Union and who supplied you with information; is that correct?

A. Well, so far I would say that is correct, not only supplied—the information was not solely on activities of the Local, however, of Local 15.

Q. You mean the information that Mr. Ezra Chase supplied you? A. No.

Q. Well, we will come to that.

Now, didn't Mr. Ezra Chase report to you under the designation B-50?

Mr. Del Guercio: Now, if your Honor please, I object to that question. There is no evidence that he did.

Presiding Inspector: I will allow it.

A. I don't know why he should report to me

(Testimony of William F. Hynes.)

under the designation of B-50 because that designation was given to another operative. [3709]

By Mr. Gladstein:

Q. In another Union?

A. I didn't say in another Union, did I?

Q. Well, I am asking you.

A. No; in the Communist Party.

Q. Well, it was not in—

A. (Interposing) He may have been a member of the Union, this B-50.

Q. Of this particular Union?

A. Not this particular Union because it was compulsory for members of the Communist Party to belong to the Union of their trade.

Q. Now, Mr. Hynes, I want to know whether—

A. (Interposing) I said he didn't belong to that particular Union.

Q. You say the person who had the designation B-50 did not belong to the Upholstery Union, Local 15?

A. No; he had no connection whatever with that industry.

Q. I see. Well, do you remember the circumstances under which Mr. Chase became an informant for you on matters occurring within Local Union 15?

Mr. Del Guercio: If your Honor please, I will object to the form of that question. What the witness has testified to is that Ezra Chase was an informant on Communist activities within that Union.

(Testimony of William F. Hynes.)

and not trade union activities, and I believe [3710] that counsel should so state his question.

Mr. Gladstein: What does the question say?

Presiding Inspector: Read the question.

(The question referred to was read by the reporter as above recorded.)

Presiding Inspector: I will take it. Any matters; that means.

A. I don't think the matter of him contacting me at the time related to Local 15 whatsoever, at the time he contacted me.

By Mr. Gladstein:

Q. I am asking you whether you—

Presiding Inspector: (Interposing) I think he means by that there wasn't any time that it was devoted to 15; it was a general matter. 15 came within its scope. I take it that is what he means.

Mr. Gladstein: I don't know what he means.

By Mr. Gladstein:

Q. Let me ask this, Mr. Hynes: How did Mr. Chase come to start making reports to you that dealt with any activities in Local 15?

A. Well, you will have to ask Mr. Chase that. He come to me and talked to me, talked generally about Communist activities in Los Angeles, and from that time on, not daily, or not every two days, but I would say probably once a week or once every [3711] two weeks he would call me on something. If I thought the information that he was submitting was of sufficient importance to write anything

(Testimony of William F. Hynes.)

on I would ask him to write me a little memorandum on it.

By Mr. Gladstein:

Q. Well, do you remember the discussion, whether any discussion took place between you and him as to what kind of reports you were interested in?

A. No, he was not—as I said he was not a regularly employed operative and I didn't discuss matters, the form of reports that he might submit to our office, or things like that,

Q. You did not?

A. No; he had my telephone number. If he had any information he could call me at home. There would be no need of calling up to the office any late hour, or anything like that.

Q. Did you ever discuss with him the kind of subject matter in which you were interested?

A. I think he knew generally.

Mr. Del Guercio: I object to that line of examination.

Presiding Inspector: I will allow it.

The Witness: He knew generally as a member of the Communist Party what type of information I was interested in.

Mr. Gladstein: I move the answer be stricken as not responsive. [3712]

Presiding Inspector: Yes, strike it out. Read the question.

(The question referred to was read by the reporter as above recorded.)

(Testimony of William F. Hynes.)

Presiding Inspector: If you can answer it.

The Witness: No, I didn't discuss in detail with him any type of subject matter. I told him I was interested in any illegal activities of the Communists, which I considered were all illegal, no matter where they were at. I had no lengthy discussion as to types of meetings that I would like to have him cover, or things like that. I had no right to take up the man's time as I would a regular operator that was employed by me.

By Mr. Gladstein:

Q. Did you ever discuss with him, whether in detail or not, the question of reporting in advance on strikes?

A. No, I did not.

Q. You did receive reports from him in advance of strikes, did you not?

A. No, I don't recall specifically that I did. I do recall now that I received a telephone call from him one time telling me that there would likely be some trouble on a certain picket line. I don't know—I think it was the Universal; I am not certain.

Q. Which one? [3713]

A. Universal Furniture Company.

Q. Before coming here today did you see Mr. Chase?

A. Did I see him? No, I did not.

Q. When is the last time you saw him?

A. Oh, I haven't seen Mr. Chase in—I seen him once when he was out in West Los Angeles—when

(Testimony of William F. Hynes.)

I was out in West Los Angeles Division he came by there one day. It has probably been a year or more since I seen him.

Q. Before coming here today did you read any of the testimony that Mr. Chase gave in this hearing?

A. Yes, I read it in the Los Angeles papers.

Q. Did you read it anywhere else besides in the newspapers?

A. Yes, in the Communist Peoples World.

Q. Did you read it any place else besides in the newspapers?

A. No, I did not, absolutely not.

Q. Did you ever see the transcript of the testimony here? A. No.

Q. Did anyone ever summarize to you the testimony that Chase gave here?

A. No, they did not.

Q. Did Mr. Chase ever use the number 80 in reporting to you? [3714]

Mr. Del Guercio: Will you read that, please?

(The question referred to was read by the reporter as above recorded.)

A. Not to my knowledge.

By Mr. Gladstein:

Q. Did he ever use the designation B-20?

A. B-20? He couldn't have used B-20. I had an operator with B-20. That usually covers—

Q. (Interposing) I am asking you did he?

A. No, he did not.

(Testimony of William F. Hynes.)

Q. Did he ever use any designation that you can remember?

A. No; I say he may have used the designation 50 or 60, or something like that, in calling up the office if he wanted to leave word for me to call him, or something like that. [3715]

Q. Then he could have used the designation "80"?

A. No. I told him to use 50, 60, 70, something like that.

Q. When did you tell him that?

A. That was on, oh, about the time that he came up to the office and talked to me; some time in 1937.

Q. That is when this whole thing began, his reporting for you?

A. Yes.

Q. Was anybody else present in your office when he spoke to you?

A. No, I don't think there was anybody else present then.

Q. Did Mr. Chase always report directly to you or through somebody else at times?

A. Well, I would say he might have talked to other officers on the detail—I don't know anything about that. Usually, the matter of reporting information, he tried to get in touch with me.

Q. Did you give him instructions as to which person or persons to communicate his information to in the event he was unable to get you?

A. No. He was always able to get me.

(Testimony of William F. Hynes.)

Q. I asked you whether you gave him instructions as to whom— [3716]

A. (Interposing) I didn't give him any instructions as to who to call.

Q. Well, now, going back to this first time did Mr. Chase volunteer, voluntarily offer his services to you or was this at your request?

Mr. Myron: I think this has all been covered, gone into before.

Mr. Gladstein: I don't think so.

Presiding Inspector: I think I will take it. I am not sure whether this exact matter was gone into.

The Witness: You say did he discuss it?

Mr. Gladstein: Read the question.

(The question referred to was read by the reporter as above recorded.)

A. No. He voluntarily offered his services.

By Mr. Gladstein:

Q. Was that the first thing he did when he came into your office?

A. No. I recall he called me up first and told me he would like to talk to me.

Q. And as a result of that call did you make an appointment with him?

A. Yes. I talked with him, a few days later, I think it was.

Q. And that was in your office, was it?

A. Yes. [3717]

Q. Where was your office then?

(Testimony of William F. Hynes.)

A. I think it was in the Klinker Building at that time, First and Broadway.

Q. How was the subject of Mr. Chase supplying you with information broached?

A. Well, he just talked generally, that he was very much dissatisfied with the Communist movement, Party, and talked generally, and gave me certain information, and indicated that he was ready to break with them, although he hadn't broken as yet with them.

Q. Did you advise him as to whether he should or should not break with them?

A. I told him he could use his own judgment as to that.

Q. Did you suggest that he might be of value if he remained in the Communist Party and not break with them?

A. I did tell him that he wouldn't be able to submit information to me if he took that course of action. I said, "That is entirely up to you."

He said, "I am willing to expose that whole damn Communist clique within the Upholsterers Union. So if you have any intention of using an operator"—and I think he did that very thing that he said he was going to do.

Q. As of the time that he first spoke to you did you suggest to him what his course should be?

A. No, I didn't suggest anything. That was later in [3718] his conversations.

Q. Let us confine ourselves to the very first time, Mr. Hynes. As I understand it—

(Testimony of William F. Hynes.)

Presiding Inspector: He said he didn't do anything along that line.

By Mr. Gladstein:

Q. You said that in this first conversation Mr. Chase said he was about ready to break with the Communist Party?

A. Yes; that is right.

Q. Did you suggest to him that he would be of value to you if he did not break with the Communist Party as of that time?

A. No, I did not. As a matter of fact, I had those fields already covered. There was no need of taking on anybody additionally.

Q. Did you have an operative in Local 15 at that time?

A. I told you I didn't—I am not interested in a particular Local. The City of Los Angeles, and no other city, can cover every particular local union. There is not enough money in the country for that. We are interested in those unions which are dominated by Communists, and the A. F. of L. was also, and they wanted to get rid of them as much as we did.

Q. How long after your first conversation with Mr. Chase [3710] in your office did he make his first report, do you remember?

A. No, I don't remember. I couldn't be specific as to any date. I handle many detail things up there in addition to the operatives.

Q. Did you regard Local 15 as dominated by Communists? A. Did I?

(Testimony of William F. Hynes.)

Q. Yes. A. I knew it was.

Q. I asked you did you so regard it?

A. Yes, I did so regard it.

Q. Then you were interested in all of the activities of that local?

A. Not all of their activities. I was interested in the activities of the Communists within that union.

Q. What activities?

A. Communist activities carried on.

Q. Well, what particular activities?

A. The boring into the leadership, and things like that, such as we have in most all of the Unions.

Q. What activities of the Communists in Local 15 were you interested in?

A. I was interested in any illegal activity that might be engaged in on behalf of the Communist Party.

Q. You were interested in a general way in any illegal activity engaged in by anybody, weren't you, as a police officer. [3720]

A. Yes; and in any illegal activity in connection with strikes. After all, the City was responsible for damage to property, or injury to persons as a result of riots and, as such, the Police had a right to be interested in that.

Q. You were interested in the question of strikes of Local 15 which you regarded as dominated by Communists, is that correct?

Mr. Del Guercio: This is all immaterial, your Honor.

(Testimony of William F. Hynes.)

Presiding Inspector: I think I will take it but, of course, that isn't all he has testified to.

Mr. Gladstein: But I am asking him that.

Presiding Inspector: ~~He has said that is part of what he was interested in.~~

Mr. Gladstein: Let us see if he answered that. Read the question.

Presiding Inspector: He doesn't need to answer that. He already answered that. He says he is interested in the activities of the Communists there, and who were boring in and trying to get officers elected, and in their illegal activities.

Mr. Gladstein: I didn't hear him say anything like that.

Presiding Inspector: Mr. Reporter, go back and read that part where he said something about "boring into the leadership."

(Whereupon the reporter searched for that portion of the record requested.) [3721]

The Reporter: I remember that, but I have some difficulty finding it.

Presiding Inspector: Then go back to the very first and read everything up to this point.

The Reporter: Read it aloud?

Presiding Inspector: Yes.

(Whereupon the reporter read the record beginning with the question:

"Q. Then he could have used the designation '80'?" down to and including the answer:

A. The boring into the leadership, and

(Testimony of William F. Hynes.)

things like that, such as we have in most all of the Unions."

as above recorded.)

Presiding Inspector: That is far enough. That covers what I said that I heard.

Mr. Gladstein: "Boring in?"

Presiding Inspector: Yes.

Mr. Gladstein: There were some other things in the last question, and his answers.

Presiding Inspector: Subsequently he said other things too, but you have been leaving that out of your questions.

Mr. Gladstein: I would like to have the balance of the record read.

Presiding Inspector: Certainly you may.

(Whereupon the reporter proceeded to read the record [3722] at the point he left off, as above indicated, and beginning with the question:

"Q. What activities of the Communists in Local 15 were you interested in?"

down to and including the question:

"Q. You were interested in the question of strikes of Local 15 which you regarded as dominated by Communists, is that correct?"

as above recorded.)

The Reporter: The last question has not been answered.

Mr. Gladstein: May that question be answered?

Presiding Inspector: Yes. The reason I inter-

(Testimony of William F. Hynes.)

rupted was to gain time. It has already been answered, but I will allow it to be answered again.

I tried to explain what I thought was the testimony, and you said you hadn't heard it that way. Of course, we are all apt to make mistakes.

Mr. Gladstein: Will you read the last question again?

(The question referred to was read by the reporter as follows:

"Q. You were interested in the question of strikes of Local 15 which you regarded as dominated by Communists, is that correct?"

A. Yes.

By Mr. Gladstein: [3723]

Q. Can you give us your best recollection, Mr. Hynes, of the total number of written reports you received from Mr. Chase?

Mr. Del Guercio: If your Honor please—

Presiding Inspector: If he can give it, he may.

A. Well, they were very few. I mean by a "few," I wouldn't say over five or six during the whole period of time.

By Mr. Gladstein:

Q. Can you estimate the total number of telephone reports that he made to you?

A. Well, several, I would say; maybe 14, between 14 and 20, or maybe more.

Q. Can you estimate the total number of reports he made to you in conversations with you not over the telephone?

(Testimony of William F. Hynes.)

A. Well, I don't think I talked to him over three or four times, that is, conversations.

Q. Didn't some of these reports—

A. (Interposing) Outside of the times that I have mentioned at West Los Angeles about a year ago. That is what you are talking about?

Q. Was he making reports to you in West Los Angeles?

A. I said outside of that time. I didn't include those two times. I am not including those two times. I am talking about the time we are covering to November, 1938.

Q. Didn't you understand that I was asking you for [3724] conversations in which there were reports made to you by Mr. Chase?

A. Yes. I said that.

Presiding Inspector: I think he understood.

A. You are talking about personal conversations?

Presiding Inspector: But he was just avoiding any misunderstanding about those other times. The question is clear.

It is ten minutes past four.

Mr. Gladstein: We can't finish with this witness today.

Presiding Inspector: I suppose not.

Do you want to bring something up, Mrs. Kong?

Mrs. King: I did want to bring up, your Honor, the problem of Mr. Bridges absenting himself from the hearing on Friday afternoon. He has Union business that he must attend to.

(Testimony of William F. Hynes.)

Presiding Inspector: There is no objection to that, is there?

Mr. Del Guercio: Not if the Court has no objection.

Presiding Inspector: I have no objection.

Mr. Del Guercio: Very well.

Mrs. King: Then he may be permitted to absent himself on Friday?

Presiding Inspector: So far as the Presiding Inspector is concerned; yes.

Mrs. King: Thank you. I misstated myself a moment ago. [3725] I said "Friday afternoon." I meant all day Friday, as I mentioned to you before.

Mr. Del Guercio: I will leave it entirely up to the Court.

Presiding Inspector: I see no objection to it. It is on your own request and it won't affect the validity of the hearing.

Adjourned until tomorrow at ten o'clock.

(Whereupon, at 4:10 P. M. an adjournment was taken to Wednesday, May 14, 1941; at 10:00 A. M.) [3726]